Exhibit 3

Page 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

____X

ANTHONY BAFFO,

Plaintiff,

Index No.

10 Civ 1245

-against-

(LDW) (ETB)

NEW YORK INSTITUTE OF TECHNOLOGY;
ROBERT RIZZUTO, in his official and individual capacities; and LEONARD
AUBREY, in his official and individual capacities,

Defendants.

____X

March 22, 2011 10:05 a.m.

Videotaped deposition of ROBERT
RIZZUTO, held at the offices of Thompson Wigdor &
Gilly LLP, 85 Fifth Avenue, New York, New York,
pursuant to Notice, before Lynne D. Metz, a
Shorthand Reporter and Notary Public of the State
of New York.

	Page 2		Page 4
1		1	
2	APPEARANCES:	2	THE VIDEOGRAPHER: We are now on the
3		3	record. My name is Drew Cerria. I
4	THOMPSON WIGDOR & GILLY LLP	4	represent Veritext New York. The date today
5	Attorneys for Plaintiff	5	is Tuesday March 22, 2011 and the time is 10:05:45
6	85 Fifth Avenue	6	approximately 10:05 a.m.
7	New York, New York 10003	7	Today's deposition is being held at
8	BY: GREGORY N. FILOSA, ESQ.,	8	the law offices of Thompson Wigdor & Gilly
9	of Counsel	9	LLP which is located at 85 Fifth Avenue New
10		10	York City, New York 10003. We are on the 10:06:02
11		11	fifth floor.
12	FULBRIGHT & JAWORSKI L.L.P.	12	The caption of today's case is Anthony
13	Attorneys for Defendants	13	Baffo versus New York Institute of
14	666 Fifth Avenue	14	Technology, Robert Rizzuto, in his official
15	New York, New York 10103	15 16	and individual capacities and Leonard Aubrey 10:06:19 in his individual and official capacities in
16 17	BY: NEIL G. SPARBER, ESQ., of Counsel	17	the United States District Court Eastern
18	of Counsel	18	District of New York number 10 Civ 1245
19		19	(LDW)(ETB).
20	ALSO PRESENT:	20	Our witness today is Mr. Robert 10:06:39
21	Anthony Baffo	21	Rizzuto, and at this time if our attorneys
22	Drew Cerria - Videographer	22	will identify themselves, their firms and
23	21011 002220 1 2000 8 0 1 2000	23	the parties they represent after which our
24		24	reporter Miss Lynne Metz, also of Veritext,
25		25	will swear Mr. Rizzuto and we will begin. 10:06:51
	Page 3		Page 5
1		1	R. Rizzuto
2	IT IS HEREBY STIPULATED, by and between the	2	MR. FILOSA: Gregory Filosa with
3	attorneys for the respective parties hereto, that:	3	Thompson Wigdor & Gilly for plaintiff
4	All rights provided by the C.P.L.R., and Part 221	4	Anthony Baffo.
5	of the Uniform Rules for the Conduct of	5	MR. SPARBER: Neil Sparber for 10:06:58
6	Depositions, including the right to object to any	6	Fulbright & Jaworski for the defendants.
7	question, except as to form, or to move to strike	7	ROBERT RIZZUTO,
8	any testimony at this examination is reserved; and	8	called as a witness, having been first duly sworn
9	in addition, the failure to object to any question	9	by the Notary Public (Lynne D. Metz), was
10	or to move to strike any testimony at this	10	examined and testified as follows: EXAMINATION BY
11	examination shall not be a bar or waiver to make	11	MR. FILOSA:
12 13	such motion at, and is reserved to, the trial of this action.	13	Q. Mr. Rizzuto, could you please state
14	illis action.	14	your full name for the record?
15	This deposition may be sworn to by the witness	15	A. Yes, Robert James Rizzuto. 10:07:18
16	being examined before a Notary Public other than	16	Q. Now as I indicated on the record, my
17	the Notary Public before whom this examination was	17	name is Greg Filosa. I am an attorney with
18	begun, but the failure to do so or to return the	18	Thompson Wigdor & Gilly and we represent the
19	original of this deposition to counsel, shall not	19	plaintiff in this matter. We have asked you to
20	be deemed a waiver of the rights provided by Rule	20	come down today to answer a few questions about 10:07:29
21	3116 of the C.P.L.R. and shall be controlled	21	information that you may have about this case.
22	thereby.	22	Have you ever testified at a
23	·	23	deposition before?
24	The filing of the original of this deposition is	24	A. No.
25	waived.	25	Q. So I am going to go over a few ground 10:07:39

2 (Pages 2 to 5)

	Dags 14		Page 16
	Page 14		
1	R. Rizzuto	1	R. Rizzuto
2	A. Yes.	2	That was pretty much it.
3	Q. Do you recall what those documents	3	Q. Did you search through your electronic
4	were?	4	files for any documents that you believe related
5	A. There were a few e-mails. Calendar, 10:14:26	5	to this case? 10:16:57
6	some calendar events that were on my calendar.	6	A. Yes.
7	Q. Were they documents that you had seen	7	Q. And where what electronic files did
8	before?	8	you search?
9	A. I had not seen them before that.	9	A. Just I would always file them if it
10		10	was a memo or a meeting I would go to that part 10:17:05
11	** *	11	and say memo. I would always start like you
12	• • •	12	know that's how I knew where to find things or
13		13	meeting.
14		14	Q. And what did you do to search your
15		15	electronic files for documents that you thought 10:17:15
16		16	might be related to this?
17		17	A. Just went into My Documents and looked
18		18	at memos and went down a list to see who the memo
19	· · · · · · · · · · · · · · · · · · ·	19	was to.
20	•	20	Q. Did you use any search terms like 10:17:25
21	~ .	21	searching for Mr. Baffo's name?
22		22	A. I am sure I did.
23	records for documents related to this case?	23	Q. Do you know what search terms you
24	A. I did in the past, not a lot. I did	24	used?
25	in the past, but recently no. 10:15:33	25	A. No, I don't recall. 10:17:35
	Page 15		Page 17
1	R. Rizzuto	1	R. Rizzuto
2	Q. In the past, what did you do to search	2	Q. Did anyone ask you to use any search
3	for documents?	3	terms or search these files?
4	A. Just go into my inbox or sent e-mails	4	A. No, no. Nobody asked me to do that at
5	and I had files with different people's names on 10:15:43	5	all anyway. 10:17:45
. 6	my Outlook and just looked in there.	6	Q. So what did you do when you found
7	Q. Did you find any documents in that	7	these, any electronic files that you thought might
8	well, strike that.	8	be relevant to this case?
9	Did you have a file strike that.	9	A. I was looking for one specific one
10	The files you are talking about, are 10:16:01	10	that I believe that I wrote to Len Aubrey back in 10:17:56
11	they in your Outlook or are they on your hard	11	August about this and about wanting to terminate
		12	or revamp the operation concerning Anthony and I
12	drive or your desktop?	12	of icvaling the operation concerning randomy and i
12 13	drive or your desktop? A. I didn't find much. So I would	13	and the second s
13	A. I didn't find much. So I would		
13 14	A. I didn't find much. So I would imagine I had one file. So that would have	13	couldn't find it and to this day I felt like it
13 14 15	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16	13 14	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find
13 14 15 16	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much	13 14 15	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18
13 14 15	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much there.	13 14 15 16	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18 was nothing else there of any substance. Q. So you believe you wrote a memo to Len
13 14 15 16 17	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much there. Q. So was there a file in Outlook, a file	13 14 15 16 17	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18 was nothing else there of any substance.
13 14 15 16 17 18	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much there. Q. So was there a file in Outlook, a file of e-mails; correct?	13 14 15 16 17 18	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18 was nothing else there of any substance. Q. So you believe you wrote a memo to Len Aubrey in August A. Yes.
13 14 15 16 17 18 19 20	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much there. Q. So was there a file in Outlook, a file of e-mails; correct? A. Yes. 10:16:28	13 14 15 16 17 18 19	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18 was nothing else there of any substance. Q. So you believe you wrote a memo to Len Aubrey in August A. Yes.
13 14 15 16 17 18 19 20 21	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much there. Q. So was there a file in Outlook, a file of e-mails; correct? A. Yes. 10:16:28 Q. And separate from a file and e-mails	13 14 15 16 17 18 19 20	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18 was nothing else there of any substance. Q. So you believe you wrote a memo to Len Aubrey in August A. Yes. Q of 2009 that referenced the 10:18:27
13 14 15 16 17 18 19 20 21 22	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much there. Q. So was there a file in Outlook, a file of e-mails; correct? A. Yes. 10:16:28 Q. And separate from a file and e-mails did you have a separate file on your desktop or	13 14 15 16 17 18 19 20 21	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18 was nothing else there of any substance. Q. So you believe you wrote a memo to Len Aubrey in August A. Yes. Q of 2009 that referenced the 10:18:27 elimination of Mr. Baffo's A. Yes.
13 14 15 16 17 18 19 20 21	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much there. Q. So was there a file in Outlook, a file of e-mails; correct? A. Yes. 10:16:28 Q. And separate from a file and e-mails	13 14 15 16 17 18 19 20 21 22	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18 was nothing else there of any substance. Q. So you believe you wrote a memo to Len Aubrey in August A. Yes. Q of 2009 that referenced the 10:18:27 elimination of Mr. Baffo's A. Yes.
13 14 15 16 17 18 19 20 21 22 23 24	A. I didn't find much. So I would imagine I had one file. So that would have been on I guess my hard drive. I don't understand 10:16:16 the computer that much, but there wasn't much there. Q. So was there a file in Outlook, a file of e-mails; correct? A. Yes. 10:16:28 Q. And separate from a file and e-mails did you have a separate file on your desktop or your My Documents that pertained to Mr. Baffo?	13 14 15 16 17 18 19 20 21 22 23	couldn't find it and to this day I felt like it was there and I knew I wrote it, but couldn't find it. That's really what I was looking for. There 10:18:18 was nothing else there of any substance. Q. So you believe you wrote a memo to Len Aubrey in August A. Yes. Q of 2009 that referenced the 10:18:27 elimination of Mr. Baffo's A. Yes. Q position? If you could just wait

5 (Pages 14 to 17)

	Page 18		Page 20
1		1	R. Rizzuto
1 2	R. Rizzuto Q for the court reporter's sake wait	1 2	Q. So it was one memo from either 2008 or
3	until I finish the question.	3	2009 about lateness?
4	You believe you wrote a memo in August	4	A. Yes.
5	of 2009 to Mr. Aubrey that referenced the 10:18:43	5	Q. Did you search strike that. 10:20:25
6	elimination of Mr. Baffo's position?	6	Did you ask Mr. Aubrey whether or not
7	A. Yes.	7	he had a copy of the memo that you thought that
8	Q. But you were unable to find that	8	you wrote to him in August of 2009 about the
9	document?	9	elimination of Mr. Baffo's position?
10	A. No. 10:18:50	10	A. Yes. 10:20:36
11	Q. Where did you search for that	11	Q. And what did you do? Did he have it?
12	document?	12	A. No.
13	A. In My Documents.	13	Q. Did he recall that memo?
14	Q. Would it have been maintained anywhere	14	A. No.
15	else other than in your My Documents folder? 10:18:58	15	Q. So do you have any understanding of 10:20:47
16	A. No.	16	whether or not you actually wrote that memo in
17	Q. But ultimately at the end of the day	17	August of 2009?
18	you weren't able to find it?	18	A. I really believe that I did.
19	A. Yeah. There was one specific file I	19	Q. But you have no documents which would
20	was looking for too because I wanted to write 10:19:06	20	show that? 10:20:56
21	Anthony up for lateness also back then and Len for	21	A. No.
22	some reason, to this day I don't know why, told me	22	Q. And you would have expected you had
23	not to do it and I was looking for that document	23	written a memo in August of 2009 it would have
24	too and couldn't find that as well.	24	been saved to your computer; right?
25	Q. What document are you referring to? 10:19:20	25	A. Sure. 10:21:03
	Page 19		Page 21
1	R. Rizzuto	1	R. Rizzuto
2	A. It's a Anthony had a habitual	2	Q. Did you search any of your strike
3	lateness problem and wanted to write him up. I	3	that.
4	actually created the document and when I brought	4	Did you maintain any hard copy files
5	it to Len he said no, hold off on that. 10:19:31	5	in your office about any of your, any employees of 10:21:10
6	Q. Do you recall when that was that you	6	the de Seversky Center?
7	wrote the document?	7	A. Nothing consistently, but some.
8	A. It was either 2008 or 2009. It was	8	Q. Did you search these hard copy files for anything related to Mr. Baffo or this lawsuit?
9	earlier. O. And why were you looking for that 10:19:42	9	A. No. 10:21:22
10	Q. And why were you looking for that 10:19:42 document?	11	Q. Did anyone ask you to search those
11 12	A. Just because part of this was you know	12	The state of the s
13	performance.	13	A. No.
14	Q. And you thought that demonstrated	14	Q. So to this day you haven't searched
15	strike that. 10:19:56	15	any of the hard copy files? 10:21:29
16	What did you think that that	16	A. No.
17	demonstrated?	17	Q. Where are they maintained?
18	A. Habitual problem of lateness.	18	A. They were maintained in a terrible
19	Q. And that was dating back to 2008,	19	filing system that I had which is better today,
20	2009? 10:20:08	20	but in the file cabinet. 10:21:38
21	A. I believe so.	21	Q. Where is that file cabinet?
22	Q. Were there any other performance	22	A. In my desk draw.
23	related documents that you remembered that during	23	Q. Does anyone else have access to this
24	that time period that you were looking for?	24	file cabinet?
25	A. No. 10:20:16	25	A. No. 10:21:47

6 (Pages 18 to 21)

Page 54	Page 56
1 R. Rizzuto	1 R. Rizzuto
2 were no longer in that position?	2 Q. But did you have — was he
3 A. I was in charge of overseeing the	3 responsible did he approve all expenses?
4 entire culinary operation, purchasing.	4 A. No.
5 Q. And when you say the entire culinary 10:56:25	5 Q. Only larger expenses? 10:58:45
6 operation, you are referring to the de Seversky	6 A. Yes.
7 Center?	7 Q. And do you know what his, Mr. Thorn's
8 A. Yes.	8 responsibilities were as general manager at the
9 Q. And purchasing, is that just for the	9 time that you reported to him when you were
10 de Seversky Center? 10:56:35	10 executive chef? 10:59:09
11 A. Yes.	11 A. I guess as an overview he was
12 Q. Anything else that falls under the	12 responsible for everything that had to deal with
13 executive chef job duties?	13 the de Seversky Center.
14 A. Scheduling the culinary staff,	Q. Did he have any involvement in the
15 sanitation. 10:56:45	15 day-to-day operations? 10:59:21 16 A. Yes.
Q. What do you mean by sanitation?A. Ensuring that the food is handled	17 Q. In the day-to-day operations of the
18 properly, received properly, kitchens are cleaned.	18 dining room?
19 Q. And do you know what your salary was	19 A. Yes.
20 when you came back to the de Seversky Center in 10:57:04	20 Q. And what was his involvement in the 10:59:27
21 1993?	21 day to day operations at the time that you were
22 A. I believe it was around 80,000.	22 executive chef?
23 Q. And do you recall whom you reported to	23 A. Budgeting, dining room operation. He
24 when you came back to NYIT in 1993?	24 was he had a lot of knowledge with regards to
25 A. I believe it was Michael Thorn I 10:57:29	25 the dining room. He scheduled the dining room 10:59:46
Page 55	Page 57
1 R. Rizzuto	1 R. Rizzuto
2 think.	2 staff at the time.
3 Q. Did you know what his job title was?	3 Q. What about running events, would he be
4 A. General manager.	4 present for events?
5 Q. Of the de Seversky Center? 10:57:42	5 A. Most, but not all. 10:59:54
6 A. Yes.	6 Q. And if he was present was he in charge
7 Q. So you reported to him?	7 of running the event?
8 A. Yes.	8 A. You know I don't remember whether
9 Q. And what as the general manager	9 there was a maitre d' at the time. There might 10 have been. The maitre d' would have been in 11:00:09
10 what type of supervision did he exercise over you 10:57:52	
11 as executive chef?	11 charge of the event, but he would be in charge of 12 his responsibility is to make sure that
12 A. I reported to him.13 Q. Were there certain things that you	13 everything, whether it be the food, the service
14 needed his approval on?	14 was that was under his responsibilities to
15 A. Yes. 10:58:02	15 account to. 11:00:20
16 Q. Like what?	16 Q. If there wasn't a maitre d' at the
17 A. Menus, purchasing.	17 time, would he have been responsible for filling
18 Q. Now what do you mean when you say you	18 in that role?
19 needed his approval for menus or purchasing?	19 A. Yes.
20 A. If we had a wine dinner or he was 10:58:23	20 Q. What strike that. 11:00:29
21 doing any kind of special events he would want to	Following your position as executive
22 see the menu. He knew a lot about wines so he	22 chef, what was the next position that you held at
23 would pair up wines with it. Purchasing. He	23 NYIT.
24 really wanted to see any larger purchases because	24 A. General manager.
25 we had a budget that we were accountable to. 10:58:37	25 Q. And did you hold dual role in that 11:00:46

15 (Pages 54 to 57)

	Page 58		Page 60
1	R. Rizzuto	1	R. Rizzuto
2	position or were you just solely acting as general	2	Q. Now you had said one of your
3	manager?	3	responsibilities was payroll.
4	A. I held a dual role for a period of	4	What were your responsibilities with
5	time while I tried to replace myself as executive 11:00:59	5	respect to payroll? 11:03:19
6	chef.	6	A. To ensure that the payroll would be
7	Q. And were you able to replace yourself	7	processed to the payroll department at week's end.
8	as executive chef?	8	Q. And what did that involve? Did you
9	A. Yes.	9	physically go through, put the spreadsheets together in payroll or did someone put that 11:03:40
10	Q. And at that point you took on just the 11:01:08	10 11	together for you and you just reviewed it?
11	general manager duties? A. Yes.	12	A. I don't recall at that time.
13	Q. You performed just the general	13	Q. Did it vary during the time that you
14	manager you weren't performing as the executive	14	were a general manager?
15	chef anymore? 11:01:20	15	A. Vary as far as what? 11:03:51
16	A. No.	16	Q. Did it change in any way? In some
17	Q. So going forward you were just the GM,	17	cases you were putting the spreadsheets together
18	the general manager?	18	and in other cases you had someone prepare it for
19	A. Yes.	19	you?
20	Q. And what were your job duties as 11:01:28	20	A. I don't recall that I did have anybody 11:04:02
21	general manager?	21	prepare. What I'm saying is I don't recall what
22	A. Budget, payroll, ensuring that the		my process was in the beginning.
23	grounds were kept up, the inside maintenance of	23	Q. Do you recall what it was during the
24	the building was kept up. My responsibility was		end of your tenure as general manager?
25	to the whole operation even though we had an 11:01:50	25	A. Yes. I created this system of payroll 11:04:12
	Page 59		Page 61
1		1	Page 61 R. Rizzuto
1 2	R. Rizzuto	1 2	R. Rizzuto projecting, taking the revenue that was projected
ı	R. Rizzuto executive chef he still reported to me. I was		R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking
2	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well.	2	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you
2	R. Rizzuto executive chef he still reported to me. I was	2	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24
2 3 4	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and	2 3 4 5 6	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll.
2 3 4 5	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and be accountable to that budget by the end of the	2 3 4 5 6 7	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that?
2 3 4 5 6	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and be accountable to that budget by the end of the fiscal year.	2 3 4 5 6 7 8	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how?
2 3 4 5 6 7 8 9	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you	2 3 4 5 6 7 8 9	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of
2 3 4 5 6 7 8 9	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you 11:02:27	2 3 4 5 6 7 8 9	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38
2 3 4 5 6 7 8 9 10	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you 11:02:27 report to?	2 3 4 5 6 7 8 9 10	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38 A. Right.
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2 3 4 5 6 7 8 9 10 11 12 13	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you 11:02:27 report to? A. First it was the president of the college Dr. Edward Guiliano.	2 3 4 5 6 7 8 9 10 11 12 13	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38 A. Right. Q. Other than what you just is there anything other than what you just discussed as to
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you report to? A. First it was the president of the college Dr. Edward Guiliano. Q. And then did that change at any point? A. Yes. 11:02:50 Q. And who did you report to after Dr.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38 A. Right. Q. Other than what you just is there anything other than what you just discussed as to what went into that? A. Not really. 11:04:43 Q. So you would look at the revenue that
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you report to? A. First it was the president of the college Dr. Edward Guiliano. Q. And then did that change at any point? A. Yes. 11:02:50 Q. And who did you report to after Dr. Guiliano? A. Len Aubrey. Q. And what was Len Aubrey's title? A. CFO. 11:02:58	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38 A. Right. Q. Other than what you just is there anything other than what you just discussed as to what went into that? A. Not really. 11:04:43 Q. So you would look at the revenue that was going to be coming in for the next week? A. Yes. Q. And what affect did that have on the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you report to? A. First it was the president of the college Dr. Edward Guiliano. Q. And then did that change at any point? A. Yes. 11:02:50 Q. And who did you report to after Dr. Guiliano? A. Len Aubrey. Q. And what was Len Aubrey's title? A. CFO. 11:02:58 Q. During the time that you since	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38 A. Right. Q. Other than what you just is there anything other than what you just discussed as to what went into that? A. Not really. 11:04:43 Q. So you would look at the revenue that was going to be coming in for the next week? A. Yes. Q. And what affect did that have on the payroll? 11:04:53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you 11:02:27 report to? A. First it was the president of the college Dr. Edward Guiliano. Q. And then did that change at any point? A. Yes. 11:02:50 Q. And who did you report to after Dr. Guiliano? A. Len Aubrey. Q. And what was Len Aubrey's title? A. CFO. 11:02:58 Q. During the time that you since during the time that you were general manager did	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38 A. Right. Q. Other than what you just is there anything other than what you just discussed as to what went into that? A. Not really. 11:04:43 Q. So you would look at the revenue that was going to be coming in for the next week? A. Yes. Q. And what affect did that have on the payroll? 11:04:53 A. Well, we take the salaries from everybody in the building and we would look at their hours and we multiply the hours by their
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you report to? A. First it was the president of the college Dr. Edward Guiliano. Q. And then did that change at any point? A. Yes. 11:02:50 Q. And who did you report to after Dr. Guiliano? A. Len Aubrey. Q. And what was Len Aubrey's title? A. CFO. 11:02:58 Q. During the time that you since	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38 A. Right. Q. Other than what you just is there anything other than what you just discussed as to what went into that? A. Not really. 11:04:43 Q. So you would look at the revenue that was going to be coming in for the next week? A. Yes. Q. And what affect did that have on the payroll? 11:04:53 A. Well, we take the salaries from everybody in the building and we would look at their hours and we multiply the hours by their salaries and when it came out into the spreadsheet
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	R. Rizzuto executive chef he still reported to me. I was responsible for the culinary as well. Q. What was your responsibility with respect to budget as the GM? 11:02:07 A. We would have to create a budget and be accountable to that budget by the end of the fiscal year. Q. And during the time period when you first started as general manager, whom did you report to? A. First it was the president of the college Dr. Edward Guiliano. Q. And then did that change at any point? A. Yes. 11:02:50 Q. And who did you report to after Dr. Guiliano? A. Len Aubrey. Q. And what was Len Aubrey's title? A. CFO. 11:02:58 Q. During the time that you since during the time that you were general manager did you report to anyone other than Dr. Guiliano or	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	R. Rizzuto projecting, taking the revenue that was projected for, say next week Monday through Sunday, taking the salaries and then there is a formula that you put together that you would have to come out with 11:04:24 a certain number to control the payroll. Q. And how did you create that? A. What do you mean by how? Q. You said you created a system of payroll projection. 11:04:38 A. Right. Q. Other than what you just is there anything other than what you just discussed as to what went into that? A. Not really. 11:04:43 Q. So you would look at the revenue that was going to be coming in for the next week? A. Yes. Q. And what affect did that have on the payroll? 11:04:53 A. Well, we take the salaries from everybody in the building and we would look at their hours and we multiply the hours by their

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	Page 62		Page 64
1	R. Rizzuto	1	R. Rizzuto
2	because we get charged for our benefits as well,	2	A. I would delegate it.
3	and we work it in against that revenue number. If	3	Q. A job title not a specific name.A. Maitre d' at that time I think it was
4	the revenue number was too high I am sorry. If the payroll number, the projection was too high, 11:05:18	4 5	if I recall. 11:07:25
5		6	O. What were the maitre d's
6	the percentage for payroll, then we would start	7	responsibilities?
7	looking at where we would might cut back if we could.	8	A. The maitre d's responsibilities had to
8		9	do with everything that concerned the dining room
10	Q. And this is just on a weekly basis; right? 11:05:30	10	whether it be setups, its scheduling I believe at 11:07:38
11	A. Yes.	11	the time of the staff and typical daily every day
12	Q. So how could you cut back? If we are	12	dining room thing.
13	talking week to week, how would you cut back?	13	Q. And was the maitre d' the person in
14	A. Well, we would be able to cut back on	14	charge of the dining room, was there anyone else
15	part time staff not full time because full time 11:05:38	15	considered supervisor or management within the 11:08:00
16	have a set number that they are being paid.	16	dining room operations?
17	Q. So if the payroll is exceeding the	17	A. At that time I don't recall exactly,
18	revenue you try to cut back on the part-time	18	but I believe it was just the maitre d'.
19	staff?	19	Q. And during the time that you were a GM
20	A. Yes. 11:05:51	20	did you always have was the maitre d' position 11:08:14
21	Q. Now you had also mentioned maintenance	21	always filled?
22	of the de Seversky Center and responsibility over	22	A. I don't recall.
23	the grounds as GM.	23	Q. And who would cover the maitre d'
24	What did that involve?	24	responsibilities as the maitre d' if there was no
25	A. The system of putting in requests to 11:06:09	25	
	Page 63		Page 65
1	R. Rizzuto	1	R. Rizzuto
2	our facilities department through a system that	2	A. Then we must have had a maitre d'
3	they receive and if we needed weeds pulled or we	3	because it was never me.
4	needed the grass if they weren't maintaining	4	Q. But if there hadn't been a maitre d',
5	the grass on a weekly basis we would send a 11:06:22	5	it would have fallen on you as the GM? 11:08:39
6	facilitator's request in and say could you please	6	A. Yes.
7	get the grass cut we have an event coming up.	7	Q. But you don't recall there ever being
8	Inside a house if something went wrong with the	8	circumstances where there was no maitre d'?
1,9	plumbing, we would put a request in to the plumber	10	A. I don't recall that there wasn't, yeah. 11:08:51
10	to come and look at it. Things like that. 11:06:33	10 11	yeah. 11:08:51 Q. Because you never performed the maitre
11	Q. Now with respect to culinary, what was your responsibilities in that regard?	12	d' function during the time you were a GM?
12	A. Since I had knowledge of culinary and	13	A. Correct.
14	that's where I started the I would have some	14	Q. Now what's your strike that.
15	say on what the menus would be or also the 11:06:52	15	I believe you said your current 11:09:07
16	sanitation. Same thing.	16	position is Director of Dining Services?
17	Q. But was it less hands on than when you	17	A. Yes.
18	were executive chef?	18	Q. And when did you take on that
19	A. Yes.	19	position?
20	Q. Now as GM did you have any 11:07:05	20	A. Approximately, 2004. 11:09:19
21	responsibility for dining room operations?	21	Q. So do you know how long you filled the
22	A. Well, I was responsible for the dining	22	GM position?
23	room operations, but I would have somebody that	23	A. I don't recall the exact amount of
		24	time.
24	was in charge of the dining room. Q. And who would that be? 11:07:17	25	Q. But it would have been up until 2004? 11:09:41

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1 R. Rizzuto 2 A. Yes, and then some. 3 Q. What do you mean and then some? 4 A. We at that point the Director of 5 Dining Services we were starting to we took over the food service area of the college and that's hence where my title Director of Dining Services came in and at the time I was trying to interview for a general manager to take my place as doing that at the de Seversky Center. 11:10:12 1 Q. And at some point was one hired? 1 A. Yes. 1 Q. And who was hired to be the GM? 1 A. Anthony. Q. Was there any GM between you filling 11:10:23 16 that position and Mr. Baffo filling that position? A. No. Q. Do you recall when Mr. Baffo was phired? A. The exact date, year, no. 11:10:33 Q. Do you know if it was 2006? A. To be honest, I don't remember exactly when. Page 67 Page 67 I R. Rizzuto Q. Was it weeks, months, years? A. I can't give you an honest even an approximation. Q. Was it weeks, months, years? A. I can't give you an honest even an approximation. R. A. I can't give you an honest even an approximation. R. A. I can't give you an honest even an approximation. Q. Now how did it come about that you 11:12 4 were promoted to the Director of Dining Services on that it ime I thought to myself on many occasions I did 11: 10 time I thought to myself on many occasions I did 11: 11 we should be running the food service as well for 12 a few reasons. We had the capabilities on campus to do it and also the company that was in there was not doing a good job. So I went to Mr. Aubrey on a few I don't remember if it was initial 11:12:23 15 to do it and also the company that was in there was not doing a good job. So I went to Mr. Aubrey on a few I don't remember if it was initial 11:12:23 16 that position and Mr. Baffo filling that position? 12 a. No. 13 do it and also the company that was in there was not doing a good job. So I went to Mr. Aubrey on a few I don't remember if it was initial 11:12:23 15 meetings when he first started and said, what do you think about us taking over the food	:12:17
2 A. Yes, and then some. 3 Q. What do you mean and then some? 4 A. We at that point the Director of 5 Dining Services we were starting to we took over the food service area of the college and 7 that's hence where my title Director of Dining 8 Services came in and at the time I was trying to 9 interview for a general manager to take my place 10 as doing that at the de Seversky Center. 11:10:12 11 Q. And at some point was one hired? 12 A. Yes. 13 Q. And who was hired to be the GM? 14 A. Anthony. Q. Was there any GM between you filling 11:10:23 16 that position and Mr. Baffo filling that position? 17 A. No. 18 Q. Do you recall when Mr. Baffo was 19 hired? 20 A. The exact date, year, no. 11:10:33 21 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly when. Page 67 Page 67 2 Q. Was it weeks, months, years? A. I can't give you an honest even an approximation. approximation. 4 approximation. 5 Q. Now how did it come about that you 11:12 6 were promoted to the Director of Dining Services position? 8 A. I Len Aubrey started around the that time, I don't remember the year, and at that time I thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: thought to myself on many occasions I did 11: tho	:12:17
3 Q. What do you mean and then some? 4 A. We at that point the Director of 5 Dining Services we were starting to we took 11:09:59 6 over the food service area of the college and 7 that's hence where my title Director of Dining 8 Services came in and at the time I was trying to 9 interview for a general manager to take my place 10 as doing that at the de Seversky Center. 11:10:12 11 Q. And at some point was one hired? 12 A. Yes. 12 13 Q. And who was hired to be the GM? 13 14 A. Anthony. 15 15 Q. Was there any GM between you filling 11:10:23 16 that position and Mr. Baffo filling that position? 17 A. No. Q. Do you recall when Mr. Baffo was 19 hired? 18 A. The exact date, year, no. 11:10:33 19 Q. Do you recall the year? 20 A. No. 11:10:33 21 Q. Do you know if it was 2006? 22 A. No. 11:10:45 23 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly when. 11:10:45 24 A. B. R. Birmate. 11:13:13:14 25 Page 67 26 Was there any that the distribution over the food service as well for time I thought to myself on many occasions I did 11:10:11 10 time I thought to myself on many occasions I did 11:11 11 time I thought to myself on many occasions I did 11:11 12 time I thought to myself on many occasions I did 11:11 13 to do it and also the company that was in there 14 was not doing a good job. So I went to Mr. Aubrey 15 on a few I don't remember if it was initial 11:12:2: 16 meetings when he first started and said, what do 17 you think about us taking over the food service 18 and he said to me well, he said I was going to 19 talk to you about that because when I came in for 19 my interview I came in with my wife and we ate at 1 20 one of the areas and my wife said you really have to do something about this food it is terrible. 21 do gether which I did. 22 do gether which I did. 23 Q. And then from that that evolved into 11:13:13:13:13:13:13:13:13:13:13:13:13:1	:12:17
4 A. We at that point the Director of 5 Dining Services we were starting to we took 6 over the food service area of the college and 7 that's hence where my title Director of Dining 8 Services came in and at the time I was trying to 9 interview for a general manager to take my place 10 as doing that at the de Seversky Center. 11:10:12 11 Q. And at some point was one hired? 12 A. Yes. 13 Q. And who was hired to be the GM? 14 A. Anthony. 15 Q. Was there any GM between you filling 16 that position and Mr. Baffo filling that position? 17 A. No. 18 Q. Do you recall when Mr. Baffo was 19 hired? 20 A. The exact date, year, no. 21 Q. Do you know if it was 2006? 22 A. No. 23 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly 25 when. 4 approximation. 5 Q. Now how did it come about that you 11:12 6 were promoted to the Director of Dining Services 7 position? 8 A. I Len Aubrey started around the 9 that time, I don't remember the year, and at that 10 time I thought to myself on many occasions I did 11: 11 we should be running the food service as well for 12 a few reasons. We had the capabilities on campus 13 to do it and also the company that was in there 14 was not doing a good job. So I went to Mr. Aubrey 15 on a few I don't remember if it was initial 11:12:2: 16 meetings when he first started and said, what do 17 you think about us taking over the food service 18 and he said to me well, he said I was going to 19 talk to you about that because when I came in for 19 my interview I came in with my wife and we ate at 1 20 one of the areas and my wife said you really have 21 to do something about this food it is terrible. 22 to do something about this food it is terrible. 23 He told me to put a business plan 24 together which I did. 25 Q. And then from that that evolved into 11:13:1	:12:17
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11 Q. And at some point was one hired? 12 A. Yes. 13 Q. And who was hired to be the GM? 14 A. Anthony. 15 Q. Was there any GM between you filling 11:10:23 16 that position and Mr. Baffo filling that position? 17 A. No. 18 Q. Do you recall when Mr. Baffo was 19 hired? 20 A. The exact date, year, no. 21 Q. Do you recall the year? 22 A. No. 23 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly 25 when. 21 We should be running the food service as well for 12 a few reasons. We had the capabilities on campus 13 to do it and also the company that was in there 14 was not doing a good job. So I went to Mr. Aubrey 15 on a few I don't remember if it was initial 11:12:3 16 meetings when he first started and said, what do 17 you think about us taking over the food service 18 and he said to me well, he said I was going to 19 talk to you about that because when I came in for 20 my interview I came in with my wife and we ate at 1 21 one of the areas and my wife said you really have 22 to do something about this food it is terrible. 23 He told me to put a business plan 24 together which I did. 25 Q. And then from that that evolved into 11:13:0 26 Page 67 27 Page 67 28 Page 67 29 Page 67 20 Page 87 20 Page 87 21 Page 88 22 Page 88 23 Page 88 24 Page 89 25 Page 89 26 Page 89 27 Page 89 28 Page 89 29 Page 89 20 Page 89 20 Page 89 20 Page 89 21 Page 89 22 Page 89 23 Page 89 24 Page 89 25 Page 89 26 Page 89 27 Page 89 28 Page 89 29 Page 89 20 Page 89 20 Page 89 20 Page 89 21 Page 89 22 Page 89 23 Page 89 24 Page 89 25 Page 89 26 Page 89 27 Page 89 28 Page 89 29 Page 89 20 Page 89 20 Page 89 20 Page 89 21 Page 89 22 Page 89 23 Page 89 24 Page 89 25 Page 89 26 Page 89 27 Page 89 28 Page 89 29 Page 89 20 Page 89 20 Page 89 20 Page 89 21 Page 89 22 Page 89 23 Page 89 24 Page 89 25 Page 89 26 Page 89 27 Page 89 28 Page 89 29 Page 89 29 Page 89 20 P	
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15 Q. Was there any GM between you filling 11:10:23 15 on a few I don't remember if it was initial 11:12:3 16 that position and Mr. Baffo filling that position? A. No. Q. Do you recall when Mr. Baffo was 19 hired? O. A. The exact date, year, no. 11:10:33 21 Q. Do you recall the year? A. No. Q. Do you who wif it was 2006? A. To be honest, I don't remember exactly when. Page 67 Page 67 On a few I don't remember if it was initial 11:12:3 16 meetings when he first started and said, what do you think about us taking over the food service and he said to me well, he said I was going to 19 talk to you about that because when I came in for my interview I came in with my wife and we atte at 1 21 one of the areas and my wife said you really have 22 to do something about this food it is terrible. 23 He told me to put a business plan together which I did. Page 67 Page 67	
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17 A. No. 18 Q. Do you recall when Mr. Baffo was 19 hired? 20 A. The exact date, year, no. 21 Q. Do you recall the year? 22 A. No. 23 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly 25 when. Page 67 Page 67 17 you think about us taking over the food service 18 and he said to me well, he said I was going to 19 talk to you about that because when I came in for 20 my interview I came in with my wife and we ate at 1 21 one of the areas and my wife said you really have 22 to do something about this food it is terrible. 23 He told me to put a business plan 24 together which I did. 25 Q. And then from that that evolved into 11:13:00. Page 67 Page 67	1:12:49
19 hired? 20 A. The exact date, year, no. 11:10:33 21 Q. Do you recall the year? 22 A. No. 23 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly 25 when. Page 67 19 talk to you about that because when I came in for my interview I came in with my wife and we ate at 1 one of the areas and my wife said you really have 22 to do something about this food it is terrible. 23 He told me to put a business plan 24 together which I did. 25 Q. And then from that that evolved into 11:13:00 Page 67 Page 67	1:12:49
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21 Q. Do you recall the year? 22 A. No. 23 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly 25 when. 21 one of the areas and my wife said you really have 22 to do something about this food it is terrible. 23 He told me to put a business plan 24 together which I did. 25 Q. And then from that that evolved into 11:13:00 Page 67 Page 67	1:12:49
22 A. No. 23 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly 25 when. Page 67 Page 67 Page 7	
23 Q. Do you know if it was 2006? 24 A. To be honest, I don't remember exactly 25 when. Page 67 Page 67 Page 67 Page 7	
24 A. To be honest, I don't remember exactly 25 when. 11:10:45 Page 67 Page 67 Page 7	
25 when. 11:10:45 25 Q. And then from that that evolved into 11:13:0	
Page 67 Page 67	.Δ1
1 D. Digguto	.01
1 D Digguto	age 69
Q. Would you disagree with me if I told 2 you taking on the Director of Dining Room Services	es
3 you it was 2006? 3 role?	
4 A. If you had paperwork that stated that 4 A. Yes.	
5 I would agree with you. 11:10:52 5 Q. When you started, what was your salary 1	1:13:08
6 Q. And does that refresh your 6 as Director of Dining Room Services?	
7 recollection as to when you whether or not you 7 A. I don't remember my exact salary. I	
8 took on the Director of Dining Room Services 8 think it was in the 105, to 110,000 range.	
9 position in 2004? 9 Q. Do you know what it is currently? 10 A. I would love to say I know the exact 11:11:09 10 A. Yes. 11:13:29	
A. I would love to say I know the extreet 11.11.05	
122 your, but to be nomed with your same	
2. Duning the time person of the control of the con	
gotting the promoter to	
11.12.44	
15 A. 168.	
And a Director of Diving Complete	
17 you got the promotion to Director of Dining 18 Services and Mr. Baffo was hired as general 18 whom do you report to?	
19 manager, who performed the general manager 19 A. Len Aubrey.	
20 function? 11:11:32 20 Q. And what do your job responsibilities 11:	:14:07
21 A. I did. 21 as Director of Dining Services include?	
22 Q. And do you have any recollection as to 22 A. All at that point there was only	
23 how long you performed the, both the Director of 23 one operation that we were operating. It was a	
24 Dining Services and the general manager position? 24 medical school. It didn't my umbrella didn't	
o : Diming out those time in British	14:27

18 (Pages 66 to 69)

	Page 90	<u> </u>	Page 92
١.		1	R. Rizzuto
	R. Rizzuto	1 2	
2	Q. Now going back we talked about the	3	needed to grow some balls? A. Because he is too soft.
3	time period when you were taking on the general	4	
4	manager position.	5	Q. And what about that management ability strike that. 11:47:47
5	Did you ever ask Mr. Baffo for advice 11:45:34	6	How does that relate to the general
6	about serving in that, in a general manager	7	manager position?
7	position A. Yes.	8	A. There has to be clear direction for
8 9	A. Yes. O at a food service establishment?	9	the staff. Staff can't just be thrown into a
10	A. Yes. 11:45:42	10	situation. There has to be a clear expectations, 11:48:03
11	Q. And what did you discuss with him?	11	goals and then if the goals are being met
12	A. We discussed financials. Went to Papa	12	wonderful, if they are not there has to be some
13	Razzi one day and asked him to show me how he	13	action whether the action be that we help them to
14	handled food cost and payroll projections and	14	reach the goals and if they can't at some point
15	things like that. 11:46:00	15	you have to take some kind of action. 11:48:23
16	Q. And did you find his advice helpful?	16	O. Now before Mr. Baffo became employed
17	A. Yes.	17	at the de Seversky Center well, strike that.
18	Q. And did you take that advice when you	18	There came a time when the general
19	took on the general manager functions at de	19	manager position was then open at the de Seversky
20	Seversky Center? 11:46:08	20	Center? 11:48:48
21	A. Yes.	21	A. Yes.
22	Q. And after you took the role of general	22	Q. And that is because you got the
23	manager at de Seversky Center did you have any	23	promotion to the Director of Dining Services?
24	other discussions with Mr. Baffo about him taking	24	A. Yes.
25	on a role at the de Seversky Center? 11:46:23	25	Q. And at that point you discussed with 11:48:54
	Page 91	122	Page 93
1	R. Rizzuto	1	R. Rizzuto
2	A. Maybe.	2	Mr. Baffo and told him that the position was open?
3	Q. Did you ever discuss him coming and	3	A. Yes.
4	working for you at the de Seversky Center?	4	Q. Was this position advertised or posted
5	A. I think what I did was let him know 11:46:43	5	anywhere? 11:49:05
6.	that the position was becoming available.	6	A. I believe it was.
7	Q. But other than that did you ever	7	Q. And do you know whether or not Mr.
8	discuss with him you being the supervisor at the	8	Baffo submitted an application for it?
9	de Seversky Center?	9	A. Yes.
10	A. Yes. 11:46:55	10	Q. And do you know whether or not anyone 11:49:15
11	Q. And what did you discuss with him	11	else submitted an application?
12	about him potentially working at the de Seversky	12	A. I don't recall.
13	Center?	13	Q. Do you recall any of the interviews
14	A. I discussed with him we sat in the	14	for the position?
15	dining room. I remember that very clearly and I 11:47:08	15	A. I don't. 11:49:24
16	said to him, if you are going to be successful	16	Q. But you recall Mr. Baffo's interview?
17	here as general manager you are going to have to	17	A. Yes.
18	grow some balls.	18	Q. And was that the same meeting with him
19	Q. And this was in the dining room at	19	that you discussed in the dining room at the de
20	Papa Razzi or the de Seversky Center? 11:47:23	20	Seversky Center? 11:49:36
	A. De Seversky.	21 22	A. I believe it was. Q. Do you recall any other interviews
21	O Ca this was often you had tald him		TO THE VOID LEGALIZATIVE COLORS THROUGH THE STATE OF THE
21 22	Q. So this was after you had told him		The state of the s
21 22 23	about the position was open?	23	that Mr. Baffo had in connection with the
21 22			The state of the s

24 (Pages 90 to 93)

	2 110		Page 112
	Page 110		
1	R. Rizzuto	1	R. Rizzuto
2	multi-page document Bates stamped D 07277 to D	2	Q. It started on or about September 25,
3	07306. We are going to go through it so I just	3	2006?
4	want you to review it generally. You see it is	4	A. Yes.Q. And when Mr. Baffo first joined the de 12:12:27
5	titled Affidavit of Robert J. Rizzuto? 12:10:48	5	Q. And when Mr. Baffo first joined the de 12:12:27 Seversky Center, what was your opinion of his work
6	A. Yes.	6 7	performance?
7	Q. Do you recall having seen this	8	A. It was okay.
8	document before?	9	Q. What do you mean when you say it was
9	A. Yes. O. And did you prepare this document? 12:10:55	10	okay? 12:13:14
10	Z	11	A. I am trying to think how to explain
11 12	A. Indirectly.Q. What do you mean when you say		it. It was
13	Q. What do you mean when you say indirectly?	13	Q. Would you have considered it
14	A. I believe I sat with Stephen Kloepfer	14	satisfactory?
15	and we went through it. 12:11:08	15	A. Yes. 12:13:37
16	Q. And is this do you know if this	16	Q. And during what period of time did you
17	affidavit was submitted to the New York State	17	consider his work performance to be satisfactory?
18	Division of Human Rights?	18	A. Exact time frames I don't recall, but
19	A. I did not know that.	19	when he first started maybe in his first year.
20	Q. But is that what it says at the top 12:11:21	20	Q. And then at some point in your opinion 12:13:55
21	left?	21	his work performance changed?
22	A. At time I didn't know it.	22	A. Yes.
23	Q. And your signature is found on page 5	23	Q. And why was that?
24	of this document?	24	A. We tried to initiate we initiated a
25	A. Yes. 12:11:31	25	program of developing our staff and I had gone 12:14:08
	Page 111		Page 113
1	Page 111 R. Rizzuto	1	Page 113
1 2	R. Rizzuto	1 2	R. Rizzuto away to a conference and I was enlightened by this
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1	R. Rizzuto	1	R. Rizzuto
2	operation to a \$650,000 profit."	2	for all the expenditures?
3	Do you see that?	3	A. Yes.
4	A. Yes.	4	Q. So it was consistent from that time
5	Q. I just wanted to direct your attention 12:15:51	5	period you discussed earlier it was the same as 12:18:05
6	first to fiscal 2008 and at the start of fiscal	6	what we are talking about now; is that fair to
7	2008 did Mr you indicate you gave Mr. Baffo	7	say?
8	control over the budget?	8	A. Yes.
9	A. Yes.	9	Q. Now you indicate that for fiscal 2008
10	Q. And what did that entail? 12:16:04	10	the de Seversky Center suffered a \$600,000 loss. 12:18:17
11	A. I wasn't as much as micromanaging the	11	Now did you attribute that loss to Mr.
12	building with having to approve requisitioning and	12	Baffo's control of the budget?
13	purchases and payroll and things like that. I	13	A. Yes.
14	thought it would be time to give that, that's what	14	Q. And why is that?
15	his position entailed. He was supposed to be 12:16:23	15	A. Because he as general manager you are 12:18:29
16	doing that and reporting to me that the numbers	16 17	expected to watch as you go along during the year and watch your finances at the end of each month,
17	were always good and I kind of gave some of my	18	react to any problems that you may have seen or
18	responsibilities off to him.	19	maybe over expenditures and as I said, I wasn't
19	Q. And so what control did Mr. Baffo have over the budget then? 12:16:43	20	micromanaging at the time. 12:18:54
20		21	Q. And strike that.
21	A. Well, he would have he would	22	Did you have any understanding as to
22	purchase if he wanted to purchase things no problem. I just didn't micromanage it as much.	23	what role the economy may have played in the de
23	Didn't have to be everything approved by me.	24	Seversky Center suffering a loss for fiscal 2008.
24 25	Q. And as general manager would he 12:17:00	25	A. It is our jobs to foresee things and 12:19:17
		23	
	Page 115		Page 117
1	R. Rizzuto	1	R. Rizzuto
2	ultimately be required to approve any expenses?	2	react to them.
2	ultimately be required to approve any expenses? A. Yes.	2	react to them. Q. So regardless of what was going on in
2 3 4	ultimately be required to approve any expenses? A. Yes. Q. And certain expenses would also	2 3 4	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a
2 3 4 5	ultimately be required to approve any expenses? A. Yes. Q. And certain expenses would also require your approval? 12:17:12	2 3 4 5	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a loss at the de Seversky Center; correct? 12:19:27
2 3 4 5 6	ultimately be required to approve any expenses? A. Yes. Q. And certain expenses would also require your approval? A. Yes.	2 3 4 5 6	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a loss at the de Seversky Center; correct? A. Yes.
2 3 4 5 6 7	ultimately be required to approve any expenses? A. Yes. Q. And certain expenses would also require your approval? A. Yes. Q. But he would have discretion to work	2 3 4 5 6 7	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a loss at the de Seversky Center; correct? 12:19:27 A. Yes. Q. And similarly for fiscal 2009 you
2 3 4 5 6 7 8	ultimately be required to approve any expenses? A. Yes. Q. And certain expenses would also require your approval? A. Yes. Q. But he would have discretion to work within a certain level, he had discretion to	2 3 4 5 6 7 8	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a loss at the de Seversky Center; correct? 12:19:27 A. Yes. Q. And similarly for fiscal 2009 you indicate you took back budget control from Anthony
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2 3 4 5 6 7 8 9	ultimately be required to approve any expenses? A. Yes. Q. And certain expenses would also require your approval? A. Yes. Q. But he would have discretion to work within a certain level, he had discretion to approve expenses; correct? A. Yes. 12:17:21	2 3 4 5 6 7 8 9	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a loss at the de Seversky Center; correct? 12:19:27 A. Yes. Q. And similarly for fiscal 2009 you indicate you took back budget control from Anthony and managed the operation to a \$650,000 profit? A. Yes. 12:19:40
2 3 4 5 6 7 8 9 10	ultimately be required to approve any expenses? A. Yes. Q. And certain expenses would also require your approval? A. Yes. Q. But he would have discretion to work within a certain level, he had discretion to approve expenses; correct? A. Yes. 12:17:21 Q. What about the executive chef, did the	2 3 4 5 6 7 8 9 10	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a loss at the de Seversky Center; correct? 12:19:27 A. Yes. Q. And similarly for fiscal 2009 you indicate you took back budget control from Anthony and managed the operation to a \$650,000 profit? A. Yes. 12:19:40 Q. And do you attribute that profit to
2 3 4 5 6 7 8 9 10 11 12	ultimately be required to approve any expenses? A. Yes. Q. And certain expenses would also require your approval? 12:17:12 A. Yes. Q. But he would have discretion to work within a certain level, he had discretion to approve expenses; correct? A. Yes. 12:17:21 Q. What about the executive chef, did the executive chef have any control over purchasing at	2 3 4 5 6 7 8 9 10 11	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a loss at the de Seversky Center; correct? 12:19:27 A. Yes. Q. And similarly for fiscal 2009 you indicate you took back budget control from Anthony and managed the operation to a \$650,000 profit? A. Yes. 12:19:40 Q. And do you attribute that profit to your management?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Yes. Q. And certain expenses would also require your approval? A. Yes. Q. But he would have discretion to work within a certain level, he had discretion to approve expenses; correct? A. Yes. Q. What about the executive chef, did the executive chef have any control over purchasing at that time? A. Yes. Q. And what type of control did the 12:17:26 executive chef have over purchasing?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	react to them. Q. So regardless of what was going on in the economy you expected that there wouldn't be a loss at the de Seversky Center; correct? 12:19:27 A. Yes. Q. And similarly for fiscal 2009 you indicate you took back budget control from Anthony and managed the operation to a \$650,000 profit? A. Yes. 12:19:40 Q. And do you attribute that profit to your management? A. I would. Q. And why is that? A. My gift, if you call it, is to be able 12:19:52 to go into operations and turn them around. I
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30 (Pages 114 to 117)

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25 by your attorney. Just so you know where it came 12:27:44 25 Q. And do you currently still have those 12:29:25	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	R. Rizzuto it. Q. What do you believe this to be? A. This is a P&L, a basic P just the bottom line numbers. P&L for fiscal 2006 through 12:27:05 2010. Q. And when you say P&L you are referring to a profit and loss statement? A. Yes. Q. And do you believe that these numbers 12:27:15 are accurate? A. I would believe that they are. Q. And do you know whether or not the de Seversky Center maintains records like these? A. Yes. Q. Reflecting profit and loss for the particular years? A. Yes. Q. And this document was actually produced by your attorney as well, do you know 12:27:35 that? A. That might have been where I saw with Steven.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	R. Rizzuto suffered a \$600,000 loss? A. It was definitely a documentation that was produced in accounting that I had. Q. But you don't know what document that 12:28:35 was? A. Off the top of my head, no. Q. And it certainly wasn't this document; correct? A. No. 12:28:42 Q. Because this document shows there was a \$150,000 profit for that year; correct? A. Yes. Q. What other documents are you aware of that would show what the profit or loss was for a 12:28:50 particular year? A. We receive there is two reports that are driven. I always have gone to accounting to get a report at the end of the month and they would produce this report and then budget produced 12:29:08 a different report. I always would go by the one that accounting gave me and that was my understanding of the one that accounting gave me
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32 (Pages 122 to 125)

	Page 126	T	Page 128
1	R. Rizzuto	1	R. Rizzuto
2	records?	2	Q. Now looking at going back to what
3	A. No.	3	has been marked as Rizzuto Exhibit 3, if you look
4	Q. Do you know who would?	4	at fiscal year 2006; correct?
5	A. No. Probably could be produced by 12:29:31	5	A. Yes. 12:31:28
6	accounting, but I never kept hard copies of them.	6	Q. And that was the year that Mr. Baffo
7	Q. And I am just trying to get an	7	would have been hired just after the end of fiscal
8	understanding as to where the \$600,000 number came	8	year 2006?
9	from so we can assist your attorneys in finding it	9	A. Yes.
10	so it could be produced to us. 12:29:46	10	Q. Because he was hired in September of 12:31:36
11	Where would who would you strike	11	2006, so that would have been within the first
12	that.	12	month of fiscal year 2007?
13	The \$600,000 number, where do you	13	A. Yes.
14	believe you got it so that you could put it in	14	Q. You see that, and comparing '06 to '07
15	this affidavit? 12:29:55	15	you see revenue from the de Seversky Center 12:31:49
16	A. From accounting.	16	increased that year; correct?
17	Q. And was this based on a yearly	17	A. Yes.
18	document or a monthly document?	18	Q. And what do you attribute that
19	A. That particular one would have been an	19	increase to?
20	annual one. 12:30:07	20	A. Growth. Typical annual growth. The 12:31:57
21	RQ MR. FILOSA: We are going to call for	21	grounds. A lot of work got done on the grounds.
22	the production of whatever document it is	22	The mansion was in pretty much bad shape before
23	that Mr. Rizzuto was referring to in this	23	Anthony came and then we started to do a lot of
24	instance or any documents referring to	24	work on the mansion itself. The grounds were a
25	profits or losses for the de Seversky Center 12:30:21	25	big part of it. We lost a lot of business and 12:32:12
	Page 127		Page 129
1	R. Rizzuto	1	R. Rizzuto
2	for fiscal year 2008, but really 2006	2	people would come in and walk through and they
3	through 2010 and we will obviously follow up	3	would say you got to get the grounds fixed up.
4	in writing on that.	4	So we did a lot of improvements on the
5	Q. Going on you state in your affidavit 12:30:35	5	building which helped. 12:32:22
6	that in fiscal 2009 you took back budget control	6	Q. And you also see expenses also
7	and managed the operation to a \$650,000 profit;	7	increased from '06 to '07; correct?
8	right?	8	A. Yes.Q. Such that profit actually during that
9	A. Yes.O. And if you look at this chart for 12:30:45	l	year decreased from 452,000 to only 108,000? 12:32:31
10	Q. And if you look at this chart for 12:30:45 fiscal year 2009 you will see it appears to be a	11	A. Yes.
11	profit of about \$625,000; correct?	12	Q. Do you see that?
112	THE THE TENED OF THE TRANSPORT OF THE TR	!	
12		1.3	A. Yes.
13	A. Yes.	13 14	A. Yes. O. Now starting fiscal year 2008, is that
13 14	A. Yes.Q. So is that what you are referring to	13 14 15	Q. Now starting fiscal year 2008, is that
13 14 15	A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57	14 15	Q. Now starting fiscal year 2008, is that the year that Mr. Baffo had control over the 12:32:41
13 14 15 16	A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57 A. Yes.	14	Q. Now starting fiscal year 2008, is that
13 14 15 16 17	 A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57 A. Yes. Q. So in this paragraph of your affidavit 	14 15 16	Q. Now starting fiscal year 2008, is that the year that Mr. Baffo had control over the budget?
13 14 15 16 17 18	 A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57 A. Yes. Q. So in this paragraph of your affidavit the number matches up for 2009, but it doesn't for 	14 15 16 17	Q. Now starting fiscal year 2008, is that the year that Mr. Baffo had control over the budget? A. Yes.
13 14 15 16 17	A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57 A. Yes. Q. So in this paragraph of your affidavit the number matches up for 2009, but it doesn't for 2008; correct?	14 15 16 17 18	Q. Now starting fiscal year 2008, is that the year that Mr. Baffo had control over the budget? A. Yes. Q. And if you compare 2007 to 2008 you
13 14 15 16 17 18 19	A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57 A. Yes. Q. So in this paragraph of your affidavit the number matches up for 2009, but it doesn't for 2008; correct? A. Yes. 12:31:08	14 15 16 17 18 19	Q. Now starting fiscal year 2008, is that the year that Mr. Baffo had control over the budget? A. Yes. Q. And if you compare 2007 to 2008 you see that revenue increased from year to year?
13 14 15 16 17 18 19 20	A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57 A. Yes. Q. So in this paragraph of your affidavit the number matches up for 2009, but it doesn't for 2008; correct? A. Yes. 12:31:08	14 15 16 17 18 19 20	Q. Now starting fiscal year 2008, is that the year that Mr. Baffo had control over the budget? A. Yes. Q. And if you compare 2007 to 2008 you see that revenue increased from year to year? A. Yes. 12:32:54
13 14 15 16 17 18 19 20 21	A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57 A. Yes. Q. So in this paragraph of your affidavit the number matches up for 2009, but it doesn't for 2008; correct? A. Yes. Q. Do you have any explanation for that?	14 15 16 17 18 19 20 21	Q. Now starting fiscal year 2008, is that the year that Mr. Baffo had control over the budget? A. Yes. Q. And if you compare 2007 to 2008 you see that revenue increased from year to year? A. Yes. 12:32:54 Q. Do you see that?
13 14 15 16 17 18 19 20 21 22	A. Yes. Q. So is that what you are referring to in this part of your affidavit? 12:30:57 A. Yes. Q. So in this paragraph of your affidavit the number matches up for 2009, but it doesn't for 2008; correct? A. Yes. Q. Do you have any explanation for that? A. No.	14 15 16 17 18 19 20 21 22	Q. Now starting fiscal year 2008, is that the year that Mr. Baffo had control over the budget? A. Yes. Q. And if you compare 2007 to 2008 you see that revenue increased from year to year? A. Yes. Q. Do you see that? A. Mm-hmm.

33 (Pages 126 to 129)

	D 120		Page 122
	Page 130		Page 132
1	R. Rizzuto	1	R. Rizzuto
2	Q. Similarly expenses increased as well;	2	Q. But you also see for 2009 there was a
3	do you see that?	3	significant reduction in the expenses.
4	A. Yes.	4	Do you see that?
5	Q. But if you look at the profit, you 12:33:08	5	A. From what time? 12:34:57
6	compare the profit which is the net direct	6	Q. From 2008 to 2009.
7	contribution that's profit; right? You got to	7	A. Yes.
8	answer.	8	Q. There was actually a reduction of
9	Is that a yes?	9	approximately \$545,000?
10	A. Yes. 12:33:18	10	A. Yes. 12:35:07
11	Q. So the net direct contribution is	11	Q. If you trust my math.
12	profit; correct?	12	A. I trust it.
13	A. Yes.	13	Q. But you also see from revenue in 2008
14	Q. And that's the contribution that's	14 15	to 2009 decreased from approximately \$71,000? A. Yes. 12:35:19
15	paid to the university? 12:33:24	16	A. Yes. 12:35:19 Q. So during the year that you took back
16 17	A. Yes.Q. And you see from '08 strike that.	17	the budget revenue decreased but expenses
18	From '07 to '08 the profit increased	18	decreased by a greater amount which is what
19	by approximately \$41,000; do you see that?	19	resulted in the approximately 625 or \$650,000
20	A. Yes. 12:33:39	20	profit depending on whether you look at the chart 12:35:34
21	Q. And that was again during the year		or your affidavit?
22	that Mr. Baffo had control over the budget;	22	A. Yes.
23	correct?	23	Q. So comparing going back to 2006 to
24	A. Yes.	24	2007 you see the profit decreased significantly
25	Q. And that was an increase from the 12:33:45	25	
	Page 131		Page 133
1	R. Rizzuto	1	R. Rizzuto
2	prior year you had had control over the budget;	2	A. Yes.
3	correct?	3	Q. And if you trust my math it is
4	A. Yes.	4	reduction of approximately \$344,000 less in profit
5	Q. So in the year that you took over the 12:33:51	5	from the prior year. 12:36:24
6	budget Mr. Baffo generated more revenue than you	6	Do you see that?
7	had in the prior year; correct?	7	A. Yes.
8	A. Yes.	8	Q. And that was a year in which you had
9	Q. And he also increased the profit of	9	control over the budget; correct, 2007?
10	the de Seversky Center during that same year; is 12:34:02	10	A. Yes. 12:36:32
11	that fair to say?	11	 Q. Did you attribute that decrease in
12	A. Yes.	12	profit to your management?
13	Q. And is that a positive as far as	13	A. I don't know what I would attribute it
14	performance of the general manager position?	14	to. I was responsible for it though.
15	Would you consider that to be a good thing? 12:34:16	15	Q. So you would have some strike that. 12:36:45
16	A. Yes.	16	You were responsible for it though,
17	Q. And similarly if we strike that.	17	you would agree with that?
18	But for fiscal year 2009 you felt the	18	A. Yes.
19	need to take away the budget control from Mr.	19	Q. And if anyone is going to be blamed
20	Baffo? 12:34:39	20	you should accept some of the blame for it? 12:36:55
21	A. Yes.	21	A. Yes.
22	Q. And we see you can see what the	22	Q. And is that one of the reasons that
23	numbers are from that that the profit for '09 and	23	you gave control of the budget to Mr. Baffo for
24	2010 both increased; correct?	24 25	fiscal year 2008? A. No. 12:37:08
25	A. Yes. 12:34:50	23	A. No. 12:37:08

34 (Pages 130 to 133)

R. Rizzuto Q. Now I wanted to go back to we talked briefly about a roorganization that took place in 4 2008. I am sorry, the end of fiscal year 2008. What do you recall about that 12:37:39 Foreorganization? A. I recall a certain amount of people their jobs being eliminated. Q. Do you recall about many jobs were eliminated as part of this reduction in force? 12:38:04 11 A. As I said before, I think it was five combinated as part of this reduction in force? 12:38:04 12 or six. Q. Do you know what prompted the need for this reorganization? A. I was foreseeing that the economy was 12:38:16 15 not going to — I was concerned about the economy. You know everything you hear on the television and said okay how everything you hear on the television and said okay how the country is — 12:38:54 2 a Seed on what they were doing and then thinking about this reorganization? A. I was foreseeing that the economy. 10 A L vas foreseeing that the economy was 12:38:16 16 not going to — I was concerned about the economy. 17 You know everything you hear on the television and said okay how everything you hear on the television and said okay how the country is — 12:38:54 2 a Seed on what they were doing and then thinking about this reorganization? R. Rizzuto Page 135 R. Rizzuto A. H. Gull in what to wish the whole accomplish. We have the do this state the about at it and let me know the country is — 12:38:54 R. Rizzuto A. R. Rizzuto A. R. Rizzuto A. Well, based on their performance. Based on what they were doing and then thinking about this reorganization? R. Rizzuto A. R. Rizzuto A. R. I was foreseeing that the economy will have been stanped 48 455 through 457, marked for identification, as of this date.) 12:40:125 A. Well, based on their performance. Based on what they were doing and then thinking about this reorganization? A. R. Rizzuto A. Well, based on their performance. C. D. Q. And did you have any discussions with meaning the performance will be accomplish to the performance. A. Wes. Q. And did you have any d		Day 124		Page 136
2 Q. Now I wanted to go back to we talked 3 briefly about a reorganization that took place in 4 2008. I am sorry, the end of fiscal year 2008. 5 What do you recall about that 5 What do you recall about that 6 Proorganization? 7 A. I recall a certain amount of people 6 their jobs being eliminated. 9 Q. Do you recall how many jobs were 9 eliminated as part of this reduction in force? 12:38:04 11 A. As I said before, I think it was five 12 or six. 12 or six. 13 Q. Do you know what prompted the need for 14 this reorganization? 15 A. I was foreseeing that the economy. 16 You know everything you hear on the television and said sox you hear on the relevision and said sox you what the west of the answer to me was no. 20 Q. And what was that based on? 21 A. Well, based on their performance. 22 Based on what they were doing and then thinking about productivity. You know the country is — 12:39:18 23 A. Regulation of what the job can do, it is a biager withinking. It's a wider analge of thinking as a manager, as a leader and how are we going to accomplish. We have to do this you know and in it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction on it, but I was really taken back at his reaction in it, but I was really taken back at his reaction on it, but I was really taken back		Page 134		
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25 the people that we are going to still be here an 12:39:58 25 Q. And one of the positions, looking at 12:45:03	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	on and get the job done that these people were doing. Q. And did you have any discussions with Mr. Baffo about this reorganization? A. Yes. 12:39:18 Q. And I think you touched on it briefly, but what conversations did you have with Mr. Baffo about this reorganization? A. I told him what my feelings were about it and what I wanted to do and that's really what 12:39:29 I remember. Q. Did he make any recommendations as to what positions could be eliminated? A. I don't recall that he did. I just remember him really freaking out. 12:39:42 Q. And why what was your understanding of why he was freaking out? A. He couldn't grasp on to the concept of	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Baffo having submitted to you this memorandum? A. No, I don't. Q. And this memorandum includes a number of recommendations with respect to the reorganization of the de Seversky Center in October of 2008? A. Yes. Q. And it includes the elimination of certain positions? A. Yes. Q. Do you recall having received those? A. No. Q. Did you ask Mr. Baffo to create it? A. No, not that I recall. Q. And this was do you recall strike that. 12:44:49 But in this you see a number of recommendations as to adjustments to the budget as well as eliminating staff and other expenses?
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35 (Pages 134 to 137)

1 2	Page 162		Page 164
1	R. Rizzuto	1	R. Rizzuto
	A. Well, you said did I look at it as a	2	position by creating two new positions and
3	step backwards. If they need help in the kitchen	3	repositioning my catering sales manager."
4	I still go down and I wash dishes. I don't look	4	Do you see that?
5	at that as a step backwards. I look at it as the 14:09:52	5	A. Yes. 14:11:56
6	staff sees I can do that, then asking anybody else	6	Q. Now what did you do to begin
7	to do it really isn't a problem.	7	developing this plan in August of 2009?
8	Q. So it is something you do that as a	8	A. The initial part of this was just
9	positive attribute working down to perform the job	9	talking about it. Talking to I would speak to
10	that's clearly a job below or not responsibility 14:10:05	10	Eric about it and ask him what his thoughts were 14:12:12
11	of your job title and someone as the Director of	11	about it, how did he feel about it. The other
12	Dining Services wouldn't normally be expected to	12	person that I spoke to about it was Pilar Visconti
13	be washing dishes, but it is something you take	13	and what her thoughts were on it. So the initial
14	that responsibility on as ultimately your	14	part of it was just conversation.
15	responsibility for the whole department. 14:10:20	15	Q. And just conversation with these two 14:12:33
16	Part of that is washing dishes if	16	individuals?
17	necessary; is that fair to say?	17	A. Mr. Aubrey I believe and I don't know
18	A. Yes. And part of that also is letting	18	that I had discussed it with anybody else.
19	the staff know that you know we are in this	19	Q. But what were your do you recall
20	together, we are doing this together and it is 14:10:31	20	what the extent of your conversations were with 14:12:49
21	kind of a psychological thing too, if you will,	21	Miss Visconti?
22	that your that if you have no problems I	22	A. Exactly, no. I just asked I told
23	have no problems stepping back into the kitchen	23	her what I was thinking about doing. I don't even
24	and being executive chef, same thing.	24	remember whether I got a reply out of her or not.
25	Q. Same thing as if you were out in the 14:10:43	25	I am sure she must have replied something, but I 14:13:05
	Page 163		Page 165
1	R. Rizzuto	1	R. Rizzuto
2	dining room and needed someone to wait tables, you		
~		2	don't remember what that would have been.
3	could step in and do that	2	
	could step in and do that A. Sure.	ŀ	don't remember what that would have been. Q. Do you recall when these conversations were?
3	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48	3	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11
3 4	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it	3 4 5 6	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no.
3 4 5	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working	3 4 5 6 7	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of
3 4 5 6	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct?	3 4 5 6 7 8	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009?
3 4 5 6 7	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct.	3 4 5 6 7 8 9	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled.
3 4 5 6 7 8	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00	3 4 5 6 7 8 9	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32
3 4 5 6 7 8 9 10	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike	3 4 5 6 7 8 9 10 11	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place?
3 4 5 6 7 8 9 10 11 12	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that.	3 4 5 6 7 8 9 10 11	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month.
3 4 5 6 7 8 9 10 11 12 13	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your	3 4 5 6 7 8 9 10 11 12	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009?
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3 4 5 6 7 8 9 10 11 12 13 14 15	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18	3 4 5 6 7 8 9 10 11 12 13 14 15	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41
3 4 5 6 7 8 9 10 11 12 13 14 15 16	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18 A. 2.	3 4 5 6 7 8 9 10 11 12 13 14 15 16	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41 August 2009?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18 A. 2. Q. Rizzuto Exhibit 2.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41 August 2009? A. No.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18 A. 2. Q. Rizzuto Exhibit 2. Do you see that?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41 August 2009? A. No. Q. And what did you discuss with Mr.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18 A. 2. Q. Rizzuto Exhibit 2. Do you see that? A. Yes.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41 August 2009? A. No. Q. And what did you discuss with Mr. Redlich?
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18 A. 2. Q. Rizzuto Exhibit 2. Do you see that? A. Yes. Q. I want to direct your attention to 14:11:24 paragraph 10.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41 August 2009? A. No. Q. And what did you discuss with Mr. Redlich? A. I sat and I asked him I believe what 14:13:52 his feelings were on Anthony's Anthony, what he
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18 A. 2. Q. Rizzuto Exhibit 2. Do you see that? A. Yes. Q. I want to direct your attention to 14:11:24 paragraph 10. A. Okay.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41 August 2009? A. No. Q. And what did you discuss with Mr. Redlich? A. I sat and I asked him I believe what 14:13:52 his feelings were on Anthony's Anthony, what he does as a daily, weekly job and I don't remember
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18 A. 2. Q. Rizzuto Exhibit 2. Do you see that? A. Yes. Q. I want to direct your attention to 14:11:24 paragraph 10. A. Okay. Q. And you state in paragraph 10: "In	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41 August 2009? A. No. Q. And what did you discuss with Mr. Redlich? A. I sat and I asked him I believe what 14:13:52 his feelings were on Anthony's Anthony, what he does as a daily, weekly job and I don't remember his exact conversation, but he didn't think very
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	could step in and do that A. Sure. Q right? I mean that's part of your 14:10:48 job. I mean you are ultimately responsible, it rolls up to you and part of that requires working down from time to time; correct? A. Correct. Q. Now the reorganization that was set to 14:11:00 take place in October of 2009 well, strike that. Can you get in front of you your affidavit which has been marked as I believe Rizzuto Exhibit 3? 14:11:18 A. 2. Q. Rizzuto Exhibit 2. Do you see that? A. Yes. Q. I want to direct your attention to 14:11:24 paragraph 10. A. Okay.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	don't remember what that would have been. Q. Do you recall when these conversations were? A. I believe they were in the beginning 14:13:11 of August, but dates no. Q. How do you know they were in August of 2009? A. That's just what I recalled. Q. And your conversations with Mr. 14:13:32 Redlich, do you recall when they took place? A. In the same month. Q. Also in August 2009? A. Yes. Q. Do you recall specifically when in 14:13:41 August 2009? A. No. Q. And what did you discuss with Mr. Redlich? A. I sat and I asked him I believe what 14:13:52 his feelings were on Anthony's Anthony, what he does as a daily, weekly job and I don't remember

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Page 168 Page 166 R. Rizzuto R. Rizzuto 1 1 building and his answer to me was yes. 2 Q. Was that your understanding of what Mr. Redlich's impression of Mr. Baffo's work 3 That was my initial thought on that 3 performance was, that he sat at his desk all day? and trying to figure out how to restructure and I 4 4 believe it was Eric that I had stated to so where 14:16:51 5 5 A. No. I don't think there was a great 14:14:32 else do you think we need some help, you know help relationship there from where I stood. I believe 6 6 7 where we could use this money by eliminating the 7 that Anthony was jealous of Eric because of his -general manager's position somewhere else in the he was a very good sales manager. Eric had his 8 issues at times with being able to deliver his 9 9 So there were conversations like that. 14:17:03 10 message to people. 10 11 I would ask him, I think I asked him to think 11 Q. Did you ever -- so what did you about it and get back to me. 12 understand their relationship to be from during 12 O. Now at this point were you discussing 13 fiscal year 2009? 13 with him eliminating the general manager position? A. There wasn't any kind of disagreements 14 14 15 that I know of. There wasn't any kind of 15 A. Yes. 14:17:25 14:15:03 Q. Was that -- at any point did you start 16 arguments. I believe that this really stemmed 16 discussing that or was that all part of all your from knowing that Anthony wouldn't let him do his 17 discussions with him about eliminating the general 18 job. When Anthony would go on a sales call Eric 18 manager position or did it go more, progress more 19 would get upset because most of the time he would 19 20 give a great price to somebody and not be able to 14:15:18 14:17:37 20 linearly? 21 A. I had it in my mind that this is what justify that price. They were afraid -- sales 21 were afraid that Anthony is going to be on this 22 I was going to do. I was going to eliminate that 23 position. It was in my mind that I am going to do 23 call he is going to give the house away. 24 this because I know that I can get more bang for 24 So they were looking more towards the my buck because the fact that I was doing a lot of 14:17:51 25 numbers. You know we have margins that we wanted 14:15:30 Page 169 Page 167 1 R. Rizzuto 1 R. Rizzuto it anyway. I needed some assistance in other to meet and Anthony on the other hand should have 3 recognized that Eric was very, very good at what 3 4 So to answer your question, I'am 4 he did and could handle that. 5 sorry, I don't know that every time I went in 14:18:01 Q. Did you ever have any conversations 5 14:15:39 there and said I wanted to eliminate it. The big with Mr. Baffo about this? 6 7 picture was I would like to eliminate the general 7 A. No, no. manager's position. That's what I believe I said 8 Q. Why? 8 to him. I don't know how many times I said that 9 9 A. No reason. 14:15:51 to him. I don't think it was a lot. 10 Q. Did you think that was part of your 10 job as Director of Dining Services that that's 11 Q. What I am wondering is when you first expressed this intention to him, eliminating the 12 something that you should address? 12 general manager position. 13 A. Sure. I believe that I could have. 13 When did you first express that to 14 14 Q. But you didn't? 15 14:18:22 15 A. No. 14:16:01 him? A. I believe it was in August. Q. And your conversations with Mr. 16 16 Q. And why do you believe it was in Redlich about Mr. Baffo -- strike that. 17 17 Other than asking Mr. Redlich about 18 August? 18 19 Mr. Baffo's performance, what other discussions A. Because it kind of goes back to that 19 documentation that I can't find to Len Aubrey that 14:18:29 20 did you have that you are referencing in paragraph 14:16:15 I wanted to do this and I can't -- so that's why I 21 21 10 here? believe it was in August because that's when the 22 22 A. I discussed with my thoughts on -- in 23 other words, I said to Eric do you think that you thought really came into my mind. 23 24 Q. But you are not sure when you first could do your sales job as sales manager and also 25 expressed that thought to anyone else? 14:18:43 get involved in some of the operations in the 14:16:36

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1	Page 170		Page 172
_	R. Rizzuto	1	R. Rizzuto
2	A. When you say anybody else?	2	elimination of the general manager position.
3	Q. Whether it be Mr. Redlich, Miss	3	In your conversations with him did you
4	Visconti or Mr. Aubrey.	4	say here is what you need to start doing?
5	A. As I said, I believe it was in August. 14:18:50	5	A. I don't recall if I did that or not. 14:21:11
6	I don't have any documentation to prove that to	6	Sounds like something I would do, but I don't
7	you.	7	recall?
8	Q. Did you ask Mr. Redlich to take any	8	Q. Did you have any e-mail communications
9	action or prepare for the elimination of the	9	with Mr. Redlich about your discussions?
10	general manager position? 14:19:03	10	A. The discussions itself I don't believe 14:21:28
11	A. I told him that I would offer him more	11	so. I think most of it was verbal.
12	money. I would bring his salary up to, I don't	12	Q. Are you aware of any written
13	remember exactly what the salary was, but I had it	13	documentation which would show that you were
14	all figured out that I would use the money from	14	discussing this with Mr. Redlich in August of
15	that position and not and I would have to stay 14:19:17	15	2009? 14:21:38
16	within that position to be able to get Len to	16	A. No.
17	approve something like that, because Len's initial	17	Q. What about your conversations with Len
18	reaction always is is this going to be is there	18	Aubrey, what do you recall discussing with Mr.
19	going to be any more money needed for this	19	Aubrey about the elimination of the general
20	position. He was pretty strict about that. 14:19:30	20	manager position? 14:21:48
21	Q. So ultimately at the end of the day	21	A. Also verbal and it was almost the same
22	the change had to be cost neutral, you couldn't	22	idea. This is what I want to do, this is why I
23	add anymore expenses to the budget as part of any	23	want to do it and he agreed with me because he had
24	anticipated change?	24 25	known that Len and I had had discussions going back, I don't know how far, about Anthony's 14:22:12
25	A. Ultimately that was the goal. 14:19:42	25	Dack, I doi! t know now far, about Andiony's 14.22.12
	Page 171		Page 173
1	R. Rizzuto	1	R. Rizzuto
2	Q. Now you were talking about it and you	2	performance and he knew that he was his
3	said that you recognize there were some areas you would need assistance in?	3	performance was not up to where it needed to be.
	would need accietance in?		
4		4	Q. How did Mr. Aubrey know this?
5	A. Yes. 14:19:57	4 5	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24
5 6	A. Yes. 14:19:57 Q. What areas did you identify that you	4 5 6	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the
5 6 7	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in?	4 5 6 7	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any to the extent that you know, was it based on any
5 6 7 8	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself.	4 5 6 7 8	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any to the extent that you know, was it based on any independent knowledge or observations that he had?
5 6 7 8 9	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment	4 5 6 7 8 9	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware
5 6 7 8 9	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12	4 5 6 7 8 9	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39
5 6 7 8 9 10	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet	4 5 6 7 8 9 10	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews?
5 6 7 8 9 10 11 12	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would	4 5 6 7 8 9	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes.
5 6 7 8 9 10 11 12 13	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that	4 5 6 7 8 9 10 11 12	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional
5 6 7 8 9 10 11 12	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved.	4 5 6 7 8 9 10 11 12 13	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes.
5 6 7 8 9 10 11 12 13 14	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31	4 5 6 7 8 9 10 11 12 13	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49
5 6 7 8 9 10 11 12 13 14	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31 A. Eric as being a his position	4 5 6 7 8 9 10 11 12 13 14 15	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49
5 6 7 8 9 10 11 12 13 14 15	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31	4 5 6 7 8 9 10 11 12 13 14 15 16	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49 Q. And do you recall when you first
5 6 7 8 9 10 11 12 13 14 15 16	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31 A. Eric as being a his position ultimately came out to be sales and operations	4 5 6 7 8 9 10 11 12 13 14 15 16	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49 Q. And do you recall when you first discussed the elimination of the general manager
5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31 A. Eric as being a his position ultimately came out to be sales and operations manager. That would be his new title.	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49 Q. And do you recall when you first discussed the elimination of the general manager position with Mr. Aubrey?
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31 A. Eric as being a his position ultimately came out to be sales and operations manager. That would be his new title. Q. Did you have any discussions strike	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49 Q. And do you recall when you first discussed the elimination of the general manager position with Mr. Aubrey? A. That is not as clear to me as — I believe it was August as well, but I am pretty 14:23:06 definitely sure that with Pilar and Eric it was
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31 A. Eric as being a his position ultimately came out to be sales and operations manager. That would be his new title. Q. Did you have any discussions strike that. 14:20:46 Did you ask him to take any steps to prepare? I think you asked you this question	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49 Q. And do you recall when you first discussed the elimination of the general manager position with Mr. Aubrey? A. That is not as clear to me as — I believe it was August as well, but I am pretty 14:23:06 definitely sure that with Pilar and Eric it was and with Len I think it was definitely before
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31 A. Eric as being a his position ultimately came out to be sales and operations manager. That would be his new title. Q. Did you have any discussions strike that. 14:20:46 Did you ask him to take any steps to prepare? I think you asked you this question before and you referenced an increase in his	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49 Q. And do you recall when you first discussed the elimination of the general manager position with Mr. Aubrey? A. That is not as clear to me as — I believe it was August as well, but I am pretty 14:23:06 definitely sure that with Pilar and Eric it was and with Len I think it was definitely before September.
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. Yes. 14:19:57 Q. What areas did you identify that you would need assistance in? A. It was in operations itself. Operations consisted of making sure that equipment was being placed in the right being taken care 14:20:12 of, being placed in the right areas, carpet cleaning was done. The dining room would also directly report to Eric at that point if that position was approved. Q. Which position? 14:20:31 A. Eric as being a his position ultimately came out to be sales and operations manager. That would be his new title. Q. Did you have any discussions strike that. 14:20:46 Did you ask him to take any steps to prepare? I think you asked you this question	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. How did Mr. Aubrey know this? A. My discussions with him. 14:22:24 Q. So was it based on any — to the extent that you know, was it based on any independent knowledge or observations that he had? A. The only thing that he would be aware of would be the PDPs. 14:22:39 Q. The performance reviews? A. Yes. Q. PDP that stands for Professional Development Program? A. Yes. 14:22:49 Q. And do you recall when you first discussed the elimination of the general manager position with Mr. Aubrey? A. That is not as clear to me as — I believe it was August as well, but I am pretty 14:23:06 definitely sure that with Pilar and Eric it was and with Len I think it was definitely before

44 (Pages 170 to 173)

Г	Page 174		Page 176
1	R. Rizzuto	1	R. Rizzuto
2	A. Because of my missing document. I am	2	A. I don't believe so, and I don't
3	sorry to keep referring to that, but.	3	believe it was in August. I think it was later
4	Q. Now at any point is there any are	4	on.
5	you aware of any written communications with Mr. 14:23:34	5	Q. When you say later on, what do you 14:25:50
6	Aubrey that references these discussions?	6	mean?
7	A. No.	7	A. Maybe into September.
8	Q. Did you communicate with him by e-mail	8	Q. The general manager position wasn't
9	about this topic?	9	eliminated though until October of 2009; correct?
10	A. I don't believe I did. 14:23:43	10	A. Yes, but these conversations were 14:25:58
11	Q. So are you aware of any document which	11	ongoing.
12	would show that you had discussed the plan to	12	Q. But is it your belief that you
13	eliminate the general manager position with Mr.	13	discussed with him him not needing the sales
14	Aubrey in either August or September of 2009?	14	position before October of 2009?
15	A. No. 14:23:56	15	A. I don't know exactly when. 14:26:11
16	Q. Now going through strike that.	16	Q. And why well, strike that.
17	You indicate in paragraph 10 of your	17	So what happened to the open sales
18	affidavit that you began to develop a plan to	18	position; was that pursued?
19	reorganize and eliminate the general manager's	19	A. No.
20	position by creating two new positions and 14:24:19	20	Q. And what was that vacancy filled by 14:26:35
21	repositioning the catering sales manager.	21	someone else or was the budget filled in any other
22	Do you see that?	22	way, the savings for not going forward with that
23	A. Yes.	23 24	position used for any other position? A. Yes.
24	Q. Now the catering sales manager, is that a reference to Mr. Redlich? 14:24:27	25	Q. What position is that? 14:26:53
		23	
	Page 175		Page 177
1	R. Rizzuto	1	R. Rizzuto
2	A. Yes.	2	A. Some of the money went towards Eric
3	Q. Do you recall what two new positions	3	and some of it I believe was a dining room, might
4	you intended to create?	4	have been the dining room captain and a bar
5	A. I believe that initially I think was a 14:24:39	5	captain. 14:27:08
6	sales position and it might have been a dining	6	Q. But that wasn't your original plan;
7	room position.	7	correct?
8	Q. And why did you want to create these	8	A. No.
9	positions?	9 10	Q. Your original plan was to split up the money between Eric, dining room captain and the 14:27:15
10	A. I felt that the dining room needed 14:24:57	11	sales position; right?
11	some assistance. We were starting to grow a little bit, but what happened at that point I	12	A. Yes.
13	believe Eric said to me I think the money would be	13	Q. And you indicate going on in paragraph
14	more — I believe it was Eric that said to me I	14	10 of your affidavit you state: "In early
15	don't really need the sales position. I think 14:25:15	15	September 2009 the appropriate paperwork was 14:27:31
16	that Melissa and I can handle it. Let's put the	16	processed in order to authorize recruitment for
17	money towards the dining room I believe he said.	17	these new positions and the positions were later
18	Q. And do you recall when he said that?	18	listed on monster.com."
19	A. No.	19	Do you see that?
20	Q. Would that have been in your 14:25:29	20	A. Yes. 14:27:48
21	conversations that you believe you had with him	21	Q. Was that before or after the decision
22	before strike that.	22	had been made to eliminate the general manager
23	Do you believe that came up in the	23	position?
2 4	conversations that you had with him before the	24	A. My decision you are talking about, my
24	general manager position was eliminated? 14:25:41		initial decision? 14:28:02

45 (Pages 174 to 177)

	Page 178		Page 180
1	R. Rizzuto	1	R. Rizzuto
2	Q. Well, before the final decision was	2	eliminated the general manager position?
3	made.	3	A. I don't know whether it was that or
4	A. I believe it was I believe it was	4	just trying it get some heads in the door. You
5	before. 14:28:14	5	know I don't recall that, you know start 14:30:22
6	Q. Why was it before why were these	6	interviewing people.
7	positions posted before the final decision was	7	Q. And were these positions provided for
8	made to eliminate the general manager position?	8	in the 2009 budget, I am sorry, the fiscal year
9	A. I think if I recall right I had	9	2010 budget?
10	Anthony actually file it, putting those positions 14:28:24	10	A. For positions to are you saying 14:30:37
11	online. I knew what I wanted to do and I had him	11	that will take the money up that was for the
12	put them on. I think that's how it went.	12	general manager; is that what you are saying?
13	Q. It seems odd that you would have	13	Q. Yes.
14	someone posting essentially what is going to be	14	A. I don't recall.
15	their replacement by filling out the paperwork and 14:28:37	15	Q. But you would expect it would be 14:30:51
16	doing that, but your testimony is you already made	16	reflected in the budget if that was the plan was
17	the decision at that point and you had asked	17	going to be going forward it would be included in
18	Anthony to fill out the paperwork for ultimately	18	the budget; right?
19	what would become his replacement?	19	A. It should be.
20	A. Yes. 14:28:51	20	Q. When you say it should be, what are 14:31:08
21	Q. And did you strike that.	21	you referring to?
22	But looking to the next sentence in	22	A. You would so the question is did I
23	your affidavit you indicate that Len Aubrey	23	put in these positions in the initial budget for
24	approved the elimination of the general manager	24	that year?
25	position on October 16, 2009; correct? 14:29:03	25	Q. Yes. 14:31:22
	Page 179		Page 181
1	R. Rizzuto	1	R. Rizzuto
2	A. Yes.	2	A. No.
3	Q. Now why didn't Mr. Aubrey approve the	3	Q. What about did you eliminate the
4	elimination of the general manager position at the	4	general manager position from the initial budget
5	same time he approved the recruitment of the other 14:29:12	5	for that year? 14:31:30
6	positions?	6	A. No.
7	A. I don't know what the answer to that	7	Q. Why not?
8	is, but I do know that things take a long time to	8	A. Well, it would have red probably
9	process through there. When I did that		one of the reasons a red flag would have came up when Anthony saw the budget and didn't see a 14:31:37
10	elimination for those other positions, that took 14:29:24	10	when Anthony saw the budget and didn't see a 14:31:37 general manager's position in it, plus if the
11	almost four months for that to happen. I wanted it to happen in a month. It didn't take a month.	11	money is not there he would not be getting paid
12	It took three or four month to happen.	13	either.
13 14	Q. But wouldn't it make more sense to	14	Q. What do you mean if the money is not
15	eliminate the general manager position at the same 14:29:45	15	there? 14:31:49
16	time you are recruiting for the other positions?	16	A. In other words, if I eliminated the
17	A. In my mind, no.	17	general manager's position before the fiscal year
18	Q. Why not?	18	where does that leave there is not any money
19	A. Because you don't want to be caught	19	there for the general manager's position.
20	with okay, now the position is gone and now we are 14:29:57	20	Q. So you don't believe the salaries for 14:32:09
21	going to start looking for them. It could take	21	these two new positions are included in the fiscal
	month to be able to find that position. I think	22	year 2010 budget?
	the second control of the second of the seco		•
22	this is the right way to do it.	23	A. I don't believe they were, but I am
	this is the right way to do it. Q. And so the plan was to have these	23 24	A. I don't believe they were, but I am sure there is a way to find out.

46 (Pages 178 to 181)

	Page 206		Page 208
		,	R. Rizzuto
1	R. Rizzuto	1	
2	approved the elimination of the bar captain	2	because I was doing it anyway.
3	position strike that.	3	So the goal was to have a more effective operation, more leadership. Anthony was
4	Do you believe as part of it Mr. Aubrey had approved the creation of the bar 14:59:51	5	really holding us back when it came to that part 15:02:03
5	, The state of the	6	of it. His directing the staff and directing them
6 7	captain position? A. I believe so.	7	in the right direction and professionally
8	Q. So there would be paperwork on	8	developing them.
9	approving the creation of the bar captain	9	Q. And how did you come to the conclusion
10	position? 15:00:03	10	that Mr. Baffo was not doing this? 15:02:15
11	A. Yes.	11	A. Well, for one instance I had talked to
12	RQ MR. FILOSA: I don't think any of that	12	Anthony about PDPs were a big thing and I had to
13	has been produced, any recruitment	13	review them because he was giving people that
14	authorizations for the bartender captain	14	really didn't deserve to be as the top tier of
15	position. 15:00:13	15	
16	At this point I will call for the	16	and I just got out of the hospital and paperwork
17	production of that and we can obviously	17	had to go over to human resources and I phoned to
18	review the production to see whether or not,	18	send them to me because I didn't trust his
19	but I haven't seen this in the production	19	judgment on this. I went through that I almost
20	but again, I will follow up in writing on 15:00:23	20	had another aneurism because I was looking at what 15:02:5I
21	this.	21	he gave these people. I'm saying where do you
22	MR. SPARBER: Okay.	22	what is where is your thought process here.
23	Q. What affect did you hope that the	23	And then I come to find out later on
24	reorganization would have on the de Seversky	24	that I had talked to him about one of the girls
25	Center? What were the goals of the 15:00:47	25	in the sales department, Melissa Patron and he had 15:03:03
	Page 207		Page 209
1	R. Rizzuto	1	R. Rizzuto
2	reorganization, the elimination of the general	2	made me believe that he sat with her and did her
3	manager position?	3	PDP or no, a write up on her and Melissa somehow
4	A. Well, they were twofold. Part of this	4	found or Eric reviewed it with her she said that
5	whole leadership process that I have been talking 15:00:56	5	she never signed it. We believe that he may have 15:03:20
6	about we wanted to take that to another level and	6	forged that document.
7	put that more so into effect. Meaning that when	7	Q. Did you ever address that with him?A. With?
8	we did hire people, as I said before they have	8	A. With? Q. Mr. Baffo?
9	We wanted also for people to have a 15:01:11	9 10	A. This is after he left. 15:03:26
11	We wanted also for people to have a 15:01:11 quality of life. We wanted them to be able to	11	Q. Do you have a copy of that document?
12	just because we did this reorganization, both	12	A. I am sure we do.
13	reorganizations didn't mean that people, we wanted		RQ MR. FILOSA: I am sure your attorneys
14	people to work more. It is very important to us	14	can produce it to us.
15	and to me that people have a quality of life. 15:01:23	15	MR. SPARBER: Just to be clear, what 15:03:37
16	In the restaurant business I had a	16	is this document?
17	goal to say we are not going to have those 78 hour	17	THE WITNESS: It was a write-up for
18	week. I want to be able to get these people's	18	Melissa Patron.
19	hours to 45, 50 hours a week. That was only going	19	MR. SPARBER: A write-up?
20	to happen through our training and our clear 15:01:38	20	THE WITNESS: Yeah. 15:03:44
21	direction.	21	A. Can I continue?
22	Where we identified there needed to be	22	Q. Please.
23	help in the dining room, we wanted that to be	23	A. I want you to know that I really tried
24	taken care of through these positions. I knew I	24	to coach Anthony. I mean I was his friend, but I
25	could handle the general manager part of it 15:01:50	25	wanted to see him succeed and you know between the 15:04:10

53 (Pages 206 to 209)

1 2	Page 210		Page 212
		1	
4	R. Rizzuto lateness and the way he was dressed.	1	R. Rizzuto
3	I even took him to Joseph Banks and I	2	review for Mr. Redlich as sales manager? A. Yes.
4	bought him a thousand dollars worth of suits one	4	Q. Do you recall the rating that Mr.
5	night and got in trouble for it because I paid for 15:04:24	5	Redlich received for fiscal year 2009? 15:06:26
6	it on NYIT, but I wanted him to look the role and	6	A. I believe Anthony gave him an
· 7	I really wanted him to succeed and I really did	7	unsatisfactory.
8	try. I coached him. I have to tell you.	8	Q. And did you agree with that?
9	Q. So going back to the PDPs, the	9	A. No.
10	performance reviews, was it your impression that 15:04:40	10	Q. Why not? 15:06:35
11	Mr. Baffo was lenient with staff on these	11	A. Because I thought that Eric was doing
12	performance reviews?	12	a very good job in sales and for what he could do,
13	A. I would have to look at them to see	13	what Anthony would let him do. He was really held
14	exactly what I wrote in them, but I would have	14	back by Anthony, so I changed it.
15	to look at them for me to answer that question yes 15:04:53	15	Q. And when did you change it? 15:06:50
16	or no.	16	A. I don't remember exactly when I did
17	Q. Did you review Mr. Baffo's for	17	that, but I did change it.
18	example, at the end of fiscal year 2009 which	18	Q. Before it was provided to Mr. Redlich?
19	would have been you know August 2009, did you	19	A. No, after.
20	review the performance reviews that Mr. Baffo had 15:05:08	20	Q. Why did you wait until after it was 15:06:59
21	done for the staff that reported to him?	21	provided to Mr. Redlich?
22	A. In 2009?	22	A. I don't remember why I did that.
23	Q. Yes.	23	Q. Did you review his performance review
24	A. I would imagine I did, but I don't	24	before it was provided to him?
25	remember. 15:05:17	25	A. I don't remember. 15:07:08
	Page 211		Page 213
1	R. Rizzuto	1	R. Rizzuto
2	Q. Do you remember whether or not you had	i	
2	to shapes only of the comments or the retines on	2	Q. But if you had reviewed it you would
3	to change any of the comments or the ratings on	3	Q. But if you had reviewed it you would have made that change before it was given to him;
4	those?		
		3	have made that change before it was given to him; right? A. I might have, yeah. 15:07:17
4	those?	3 4	have made that change before it was given to him; right?
4 5	those? A. I don't remember, but that's my style 15:05:24 to have done that and I think I don't remember which year it was that I actually, when I took	3 4 5	have made that change before it was given to him; right? A. I might have, yeah. 15:07:17 Q. I mean the last thing you would want is for an employee to receive a review that you
4 5 6	those? A. I don't remember, but that's my style 15:05:24 to have done that and I think I don't remember which year it was that I actually, when I took them home, maybe it was 2008 but I would have if I	3 4 5 6 7 8	have made that change before it was given to him; right? A. I might have, yeah. 15:07:17 Q. I mean the last thing you would want is for an employee to receive a review that you hadn't reviewed; right?
4 5 6 7 8 9	those? A. I don't remember, but that's my style 15:05:24 to have done that and I think I don't remember which year it was that I actually, when I took them home, maybe it was 2008 but I would have if I didn't agree with them.	3 4 5 6 7 8 9	have made that change before it was given to him; right? A. I might have, yeah. 15:07:17 Q. I mean the last thing you would want is for an employee to receive a review that you hadn't reviewed; right? A. Sure.
4 5 6 7 8 9	those? A. I don't remember, but that's my style 15:05:24 to have done that and I think I don't remember which year it was that I actually, when I took them home, maybe it was 2008 but I would have if I didn't agree with them. Q. And what year did you have your brain 15:05:38	3 4 5 6 7 8	have made that change before it was given to him; right? A. I might have, yeah. 15:07:17 Q. I mean the last thing you would want is for an employee to receive a review that you hadn't reviewed; right? A. Sure. Q. Because you don't want the employee to 15:07:25
4 5 6 7 8 9 10	those? A. I don't remember, but that's my style 15:05:24 to have done that and I think I don't remember which year it was that I actually, when I took them home, maybe it was 2008 but I would have if I didn't agree with them. Q. And what year did you have your brain 15:05:38 surgery?	3 4 5 6 7 8 9 10	have made that change before it was given to him; right? A. I might have, yeah. 15:07:17 Q. I mean the last thing you would want is for an employee to receive a review that you hadn't reviewed; right? A. Sure. Q. Because you don't want the employee to 15:07:25 get the impression that you agreed with that
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54 (Pages 210 to 213)

	Page 250		Page 252
1	R. Rizzuto	1	R. Rizzuto
2	don't remember the exact, what the conversations	2	of the management staff at the de Seversky
3	were about or the meetings were about.	3	Center."?
4	Q. Do you know why you attached this	4	A. Yes.
5	e-mail to your affidavit? 15:44:52	5	Q. What discussion are you referencing? 15:47:30
6	A. It sounds like it had something to do	6	A. In reference to the elimination of
7	with the termination. I mean that would be the	7	this position.
8	only reason that was part of this.	8	Q. And was it one discussion or more than
9	Q. That's the only reason that you would	9	one discussion?
10	have attached this to the affidavit? 15:45:18	10	A. I think as I stated before, I am not 15:47:43
11	A. More than likely.	11	sure how many discussions I had with him and I am
12	Q. And if you look at the bottom e-mail	12	not I am not sure whether this had I know
13	on this page, do you see part of it is cut off?	13	Len, Carol and I sat down at some point. I don't
14	A. No.	14	remember what the date was.
15	MR. SPARBER: What is cut off? 15:45:34	15	So maybe it was, had to do with that 15:48:01
16	MR. FILOSA: The top part. Strike	16	memo. I don't recall.
17	that. Whatever version I am working off of	17	Q. Do you know whether or not this was
18	is slightly different.	18	before or after you sat down with Mr. Aubrey and
19	Q. Now you also attached to your	19	Miss Jablonsky?
20	affidavit the approval from Mr. Aubrey as Exhibit 15:45:59	20	A. I don't recall. 15:48:11
21	C.	21	Q. Well, do you know whether or not this
22	Do you see that? It is the page	22	discussion that you are referring to here was your
23	that's Bates stamped D 07297. Do you see that?	23 24	meeting with Mr. Aubrey and Miss Jablonsky?
25	A. Yes. Q. And is this the approval that Mr. 15:46:28	25	A. No, I am not sure.Q. Do you recall whether it was one 15:48:21
- 23		23	
	Page 251		Page 253
1	R. Rizzuto	1	R. Rizzuto
2	Aubrey had signed regarding the elimination of the	2	discussion with Mr. Aubrey or more than one discussion?
3	general manager position? A. That's his signature, yes.	4	A. As I stated before, I don't remember.
4 5	Q. So is this when the decision became 15:46:37	5	I don't recall how many discussions I had with 15:48:29
6	final?	6	him.
7	A. When he puts his stamp on it, yeah.	7	Q. And similarly there's no documents
8	Q. And it is dated his signature is	8	that you recall which would show that you
9	dated 10/16/09?	9	discussed this with Mr. Aubrey prior to October
10	A. Yes. 15:46:48	10	16, 2009? 15:48:43
11	Q. And did you draft this?	11	A. No.
12	A. Yes.	12	Q. Because you looked for this memo and
13	Q. So you strike that.	13	you can't find it and you looked on the computer
14	The date that's on this memo dated	14	and can't find it? Can you give me a verbal
15	October 16, 2008; do you see that? 15:46:58	15	answer? 15:48:50
16	A. Yes.	16	A. Yes, I have.
17	Q. That's just the 2008 is just a	17	Q. And you haven't been able to find this
18	typo. It is actually 2009; right?	18	memo?
19	A. Yes.	19	A. No.
20	Q. Because it is signed by Mr. Aubrey on 15:47:08	20	Q. Now turning to the second paragraph 15:48:58
21	October 16, 2009; right?	21	you indicate: "I am forecasting flat revenues for
	A. Yes.	22	fiscal 2010 and have designed a plan to create
22		22	
22 23	Q. Now turning to the first sentence of	23	three positions with the savings."
23 24	Q. Now turning to the first sentence of this memo, do you see it says: "As a followup to our discussion with regards to the reorganization 15:47:24	24 25	Do you see that? A. Yes. 15:49:10

64 (Pages 250 to 253)

_			2 000
	Page 278		Page 280
1	R. Rizzuto	1	R. Rizzuto
2	Q. And do you recall when this meeting	2	remember when it was.
3	was?	3	MR. FILOSA: Mark this as 10.
5	A. No. O. Do you recall whether or not it was 16:24:31	5	(Rizzuto Exhibit 10, a one-page document Bates stamped D 06587, marked for 16:28:04
6	Q. Do you recall whether or not it was 16:24:31 during Miss Jablonsky's first week of employment	6	identification, as of this date.)
7	with NYIT?	7	Q. You have been shown a document that's
8	A. Yes.	8	been marked as Rizzuto Exhibit 10. It is a
9	Q. And was it during her first week?	9	one-page document Bates stamped D 06587. Please
10	A. I believe what she stated was in that 16:24:40	10	
11	meeting what I do remember saying this is what we	11	A. Okay.
12	are doing. This is my initiation to NYIT or	12	Q. And have you ever seen this before?
13	something like that, but I don't remember what the	13	A. I believe Neil showed me this.
14	date was, but I do know that was in the beginning	14	Q. And is this a calendar entry from
15	when she started. 16:24:53	15	indicating a meeting with Mr. Aubrey? 16:28:25
16	Q. And do you know whether that was	16	A. Yes.
17	before or after Mr. Rizzuto had signed the	17	Q. And do you recall this meeting with
18	approval for the elimination of the general	18	Mr. Aubrey?
19	manager position?	19	A. No.
20	A. Mr. Aubrey? 16:25:01	20	Q. And this meeting was scheduled to 16:28:35
21	Q. Yeah, sorry, Mr. Aubrey.	21	start at 8:30 and end at 9 a.m.?
22	A. I would imagine that it would be after	22	A. Yes.
23	because Len would have wanted Carol's opinion on	23	Q. And it was for October 16, 2009?
24	this or blessing on this.	24 25	A. Yes.
25	Q. Was it before or after he had approved 16:25:21	25	Q. Was this the meeting when you met with 16:28:44
	Page 279		Page 281
1	R. Rizzuto	1	R. Rizzuto
1 2	R. Rizzuto the decision, would he have wanted to consult with	2	R. Rizzuto Miss Jablonsky?
	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky?	2	R. Rizzuto Miss Jablonsky? A. I don't recall.
2 3 4	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky? A. He would have wanted to consult with	2 3 4	R. Rizzuto Miss Jablonsky? A. I don't recall. Q. Do you recall what time of day it was
2 3 4 5	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky? A. He would have wanted to consult with Carol before. 16:25:30	2 3 4 5	R. Rizzuto Miss Jablonsky? A. I don't recall. Q. Do you recall what time of day it was that you met with Miss Jablonsky? 16:28:52
2 3 4 5 6	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky? A. He would have wanted to consult with Carol before. 16:25:30 Q. And did you strike that.	2 3 4 5 6	R. Rizzuto Miss Jablonsky? A. I don't recall. Q. Do you recall what time of day it was that you met with Miss Jablonsky? 16:28:52 A. No.
2 3 4 5 6 7	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky? A. He would have wanted to consult with Carol before. 16:25:30 Q. And did you strike that. Do you know how the meeting with Miss	2 3 4 5 6 7	R. Rizzuto Miss Jablonsky? A. I don't recall. Q. Do you recall what time of day it was that you met with Miss Jablonsky? 16:28:52 A. No. Q. But this is the same date that Mr.
2 3 4 5 6 7 8	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky? A. He would have wanted to consult with Carol before. 16:25:30 Q. And did you strike that. Do you know how the meeting with Miss Jablonsky was arranged?	2 3 4 5 6 7 8	R. Rizzuto Miss Jablonsky? A. I don't recall. Q. Do you recall what time of day it was that you met with Miss Jablonsky? 16:28:52 A. No. Q. But this is the same date that Mr. Aubrey signed the approval of the elimination of
2 3 4 5 6 7 8 9	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky? A. He would have wanted to consult with Carol before. 16:25:30 Q. And did you strike that. Do you know how the meeting with Miss Jablonsky was arranged? A. No.	2 3 4 5 6 7 8 9	R. Rizzuto Miss Jablonsky? A. I don't recall. Q. Do you recall what time of day it was that you met with Miss Jablonsky? 16:28:52 A. No. Q. But this is the same date that Mr. Aubrey signed the approval of the elimination of the general manager position?
2 3 4 5 6 7 8 9	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky? A. He would have wanted to consult with Carol before. 16:25:30 Q. And did you strike that. Do you know how the meeting with Miss Jablonsky was arranged? A. No. Q. Did you schedule the meeting with her? 16:25:43	2 3 4 5 6 7 8 9	R. Rizzuto Miss Jablonsky? A. I don't recall. Q. Do you recall what time of day it was that you met with Miss Jablonsky? A. No. Q. But this is the same date that Mr. Aubrey signed the approval of the elimination of the general manager position? A. Yes. 16:29:03
2 3 4 5 6 7 8 9 10	R. Rizzuto the decision, would he have wanted to consult with Miss Jablonsky? A. He would have wanted to consult with Carol before. 16:25:30 Q. And did you strike that. Do you know how the meeting with Miss Jablonsky was arranged? A. No. Q. Did you schedule the meeting with her? 16:25:43 A. I may have, but I don't recall if I	2 3 4 5 6 7 8 9 10	R. Rizzuto Miss Jablonsky? A. I don't recall. Q. Do you recall what time of day it was that you met with Miss Jablonsky? A. No. Q. But this is the same date that Mr. Aubrey signed the approval of the elimination of the general manager position? A. Yes. 16:29:03 Q. Is this did you provide this, that
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71 (Pages 278 to 281)

	D 204	П	D 200
l	Page 294		Page 296
1	R. Rizzuto	1	R. Rizzuto
2	affidavit that's been marked as Rizzuto Exhibit 2.	2	should be included in the memorandum that you
3	A. Yes.	3	obviously drafted?
4	Q. And specifically direct your attention	4	A. I don't know.
5	to the documents attached as Exhibit F which begin 16:43:54	5	Q. So you just drafted this then? 16:47:01
7	at D 07303. If you turn to the next page 7304 that's what appears to be a memo from you to Miss	6	A. No. You are asking me for an honest answer and I don't know if I I don't know. I
8	Jablonsky.	8	
9	Do you see that?	9	don't recall her asking me to put anything specific in. She may have. What I am saying is I
10	A. Yes. 16:44:27	10	
11	Q. And could you just take a moment to	11	
12	review this and the next page and let me know when	12	
13	you are ready.	13	
14	THE VIDEOGRAPHER: The time is	14	purpose of providing this information to the head
15	approximately 4:44. This will end videotape 16:44:49	15	
16	number 3 in the today's deposition of Mr.	16	
17	Robert Rizzuto on Tuesday March 22, 2011.	17	
18	We are going off the record.	18	Q. And in justifying the position you
19	(Recess taken.)	19	
20	THE VIDEOGRAPHER: The time is now 16:45:25	20	provide is accurate; right? 16:47:57
21	approximately 4:45. This will begin	21	A. Yes.
22	videotape number 4 of today's deposition of	22	Q. Because you wouldn't want to mislead
23	Mr. Robert Rizzuto on Tuesday March 22, 2011	23	Miss Jablonsky as the head of human resources;
24	and we are back on the record.	24	right?
25	BY MR. FILOSA: 16:45:48	25	A. Correct. 16:48:03
	Page 295		Page 297
1	R. Rizzuto	1	R. Rizzuto
2	A. Okay, I have read it.	2	Q. Because she needs all the information
3	Q. And is this a memorandum that you	3	so that she can perform that HR function; right?
4	provided to Miss Jablonsky?	4	A. Yes.
5	A. Yes. 16:45:57	5	Q. Now turning to the memorandum, the 16:48:09
6	Q. And it is dated October 20, 2009?	6	first line you say: "With continued uncertainty
7	A. Yes.	7	regarding the economy I am recommending a
8	Q. And this was after Mr. Aubrey had	8	reorganization and consolidation of the de
9	already approved the elimination of the general	9	Seversky Center's top management. It is my
10	manager position? 16:46:09		feeling that we will continue to feel pressure 16:48:26
11	A. Yes.	11	through fiscal 2010."
12	Q. And do you recall why you prepared	12 13	Do you see that? A. Yes.
13 14	this memorandum? A. I would believe it is because Carol	14	A. Ies. What are you referring to when you say
15	probably asked me for this. 16:46:24	15	"continued uncertainty regarding the economy"? 16:48:35
16	Q. Do you recall why she asked you for a	16	A. Uncertainty of how much revenue that
17	memorandum?	17	we will be generating for that fiscal year.
18	A. No.	18	Q. And did you review the revenue up to
19	Q. Do you recall did you ask why she	19	that period of time in before drafting this?
20	wanted the memorandum? 16:46:36	20	A. I might have, but I don't recall 16:49:03
21	A. I may have, but I don't recall asking.	21	actually doing it.
22	Q. And did she tell you what she wanted	22	Q. Do you recall whether or not you
23	you to put in the memorandum?	23	reviewed Caterease to see whether or not what the
	A. I don't recall.	24	bookings were for the remainder of this fiscal
24	i i		
25	Q. What was your understanding of what 16:46:46	25	year? 16:49:15

75 (Pages 294 to 297)

Γ		Т	
	Page 306		Page 308
1	R. Rizzuto	1	R. Rizzuto
2	right?	2	Q. Now you go on to say your
3	A. No. As I really believe that it has.	3	recommendation to Miss Jablonsky you use the
4	I know that it has.	4	word recommendation; right?
5	Q. But at the time that you planned it? 16:57:59	5	A. Yes. 17:00:07
6	A. I am sorry.	6	Q. At this point was it a recommendation?
7	Q. You were planning to eliminate the	7	Mr. Aubrey had already approved the elimination of
8	general manager position?	8	the position; right?
9	A. Yes.	9	A. Yes.
10	Q. And replace it with a dining room 16:58:06	10	Q. So was it still a recommendation at 17:00:14
11	manager position, a catering sales associate	11	that point?
12	position as well as an increase in salary to Mr.	12	A. It wouldn't have been if that was
13	Redlich.	13	if Mr. Aubrey signed off on it, but I don't know
14	So all of that would have had the same	14	whether Mr. Kloepfer still had to sign off on
15	if not more expense on the budget than Mr. Baffo's 16:58:17	15	this. I don't know what the date was that Mr. 17:00:32
16	salary; is that correct?	16	Kloepfer signed off on it.
17	A. In the theory number yes. Looking at	17	Q. You go on to say: "My recommendation
18 19	apples to apples Anthony's salary and the salary is a wash so to speak, but what we were trying to	18 19	is to eliminate the general manager's position currently held by Anthony Baffo and use the funds
20		20	
21	accomplish was these people that we filled in these positions to do a better job which would	21	to create the dining room captain/sales associate 17:00:44 position; correct?
22	offset our expenses in other areas. It would be a	22	A. Yes.
23	direct I want to make sure that I am explaining	23	Q. So that was your plan as of October
24	this to you correctly because I don't think all	24	20, 2009?
25	the time I have been speaking I don't think you 16:58:47	25	A. Yes. 17:00:50
ſ	Page 207		Daga 200
	Page 307		Page 309
1	R. Rizzuto	1	R. Rizzuto
2	R. Rizzuto understand what I am saying.	2	R. Rizzuto Q. And as we talked about earlier you
2	R. Rizzuto understand what I am saying. I have a dining room captain that's	2	R. Rizzuto Q. And as we talked about earlier you never let the sales associate position was
2 3 4	R. Rizzuto understand what I am saying. I have a dining room captain that's say scheduling staff. We didn't do a good job	2 3 4	R. Rizzuto Q. And as we talked about earlier you never let the sales associate position was never hired; right?
2 3 4 5	R. Rizzuto understand what I am saying. I have a dining room captain that's say scheduling staff. We didn't do a good job when Anthony was there and scheduling staff. We 16:59:00	2 3 4 5	R. Rizzuto Q. And as we talked about earlier you never let the sales associate position was never hired; right? A. No, it wasn't. 17:00:57
2 3 4 5 6	R. Rizzuto understand what I am saying. I have a dining room captain that's say scheduling staff. We didn't do a good job when Anthony was there and scheduling staff. We 16:59:00 didn't the projections weren't they didn't	2 3 4 5 6	R. Rizzuto Q. And as we talked about earlier you never let the sales associate position was never hired; right? A. No, it wasn't. 17:00:57 Q. Because you had conversations with Mr.
2 3 4 5 6 7	R. Rizzuto understand what I am saying. I have a dining room captain that's say scheduling staff. We didn't do a good job when Anthony was there and scheduling staff. We didn't the projections weren't they didn't always match. The projections didn't match the	2 3 4 5 6 7	R. Rizzuto Q. And as we talked about earlier you never let the sales associate position was never hired; right? A. No, it wasn't. 17:00:57 Q. Because you had conversations with Mr. Redlich where he felt that he could get by without
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	Page 322		Page 324
1	R. Rizzuto	1	R. Rizzuto
2	Q. Did she ask you to make any revisions	2	for the dining room would go to him and he would
3	to the version that you provided to her before	3	approve it against the payroll and revenue
4	this?	4	projections.
5	A. I don't recall. 17:16:17	5	Q. What about did he exercise any 17:20:12
6	MR. FILOSA: Can we mark this as 15.	6	supervisory responsibilities over the executive
7	(Rizzuto Exhibit 15, a two-page	7	chef?
8	document Bates stamped D 03300 through 3301,	8	A. No.
9	marked for identification, as of this date.)	9	Q. Or anyone in the culinary staff?
10	Q. Now you have been shown a document 17:18:01	10	A. No. 17:20:23
11	that's been marked as Rizzuto Exhibit 15. It is a	11	Q. Who would exercise that supervision?
12	two-page document Bates stamped D 03300 through	12	A. That would be me.
13	3301. Please review it and let me know when you	13	Q. And is there currently an executive
14	are ready.	14	chef?
15	A. Okay. 17:18:21	15	A. No. 17:20:31
16	Q. And this is an e-mail from you to Miss	16	Q. Who performs that function?
17	Jablonsky with an attachment.	17	A. I oversee the kitchen and I am
18	Do you see that?	18	training two young a woman and a man to
19	A. Yes.	19	eventually taking on that I have been putting
20	Q. And in the e-mail and it is dated 17:18:26	20	them through a training program. 17:20:47
21	October 20, 2009?	21	Q. For how long?
22	A. Yes.	22	A. I am choosing I created these two
23	Q. And in the e-mail that you write:	23	positions called junior sous chefs because both of
24	"Carol, attached is the proposed organizational	24	them wanted the sous chef position and in May we
25	chart moving forward." 17:18:41	25	are going to have an exam and kind of and sort of 17:21:01
	Page 323		Page 325
1	Page 323 R. Rizzuto	1	Page 325 R. Rizzuto
1 2		1	R. Rizzuto practical and a written exam that they are going
l .	R. Rizzuto A. Yes. Q. And what is it that's attached?		R. Rizzuto practical and a written exam that they are going to have to take and I am going to have somebody
2	R. Rizzuto A. Yes. Q. And what is it that's attached? A. It's the organizational chart with me	2	R. Rizzuto practical and a written exam that they are going to have to take and I am going to have somebody from the Culinary Institute come down and assist
2	R. Rizzuto A. Yes. Q. And what is it that's attached? A. It's the organizational chart with me taking on the top management position, I guess you 17:18:51	2	R. Rizzuto practical and a written exam that they are going to have to take and I am going to have somebody from the Culinary Institute come down and assist me with the judging of it and one of them will 17:21:13
2 3 4 5 6	R. Rizzuto A. Yes. Q. And what is it that's attached? A. It's the organizational chart with me taking on the top management position, I guess you 17:18:51 would call it, at de Seversky Center.	2 3 4 5 6	R. Rizzuto practical and a written exam that they are going to have to take and I am going to have somebody from the Culinary Institute come down and assist me with the judging of it and one of them will 17:21:13 come out as the sous chef and then the plan from
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,		1	R. Rizzuto
1	R. Rizzuto	2	was taken aback by it.
2	A. Mm-hmm.	3	Q. And how did you respond?
3	Q. Why did you want to eliminate the	4	A. I don't remember exactly what I said,
4	general manager position during that week?	5	but I was pretty shocked. 17:54:02
5	A. I don't recall. 17:52:02	6	Q. Do you remember what time of day that
6	 Q. Was there any need to strike that. You hadn't filled the sales associate 	7	was that he told you this?
7		8	A. It was in the morning, but don't
8 9	position or the dining room captain positions yet at that point had you?	9	recall the time.
10	A. No. 17:52:16	10	Q. Do you remember what time you got into 17:54:12
11	Q. So who was going to perform strike	11	the office that day?
12		12	A. No.
13		13	Q. Do you know what time Mr. Baffo got in
14	the general manager position before these other	14	that day?
15		15	A. No. 17:54:19
16	£ 11	16	Q. Had you spoken to him prior to his
17	chose that week or I chose that week.	17	arrival that day?
18	Q. Wouldn't you want to wait until you	18	A. I don't recall.
19		19	Q. And where were you when he told you
20		20	that he had tested positive for HIV? 17:54:27
21	question?	21	A. In my office.
22	A. No.	22	Q. And this is the office that you shared
23	Q. But you wanted to move forward and	23	with him?
24	eliminate the position the week of October 19th?	24	A. Yes.
25	A. As it states here, yes. 17:52:47	25	Q. Was anyone else present? 17:54:34
	Page 343		Page 345
1	R. Rizzuto	1	R. Rizzuto
2	Q. But you don't know why you wanted to,	2	A. No.
3	you selected that week?	3	Q. And what other than him simply telling
4	A. No.	4	you that he tested positive for HIV; did he say
5	Q. So ultimately the decision was made to 17:52:54	5	anything else? 17:54:43
6	meet with Mr. Baffo on Friday the 23rd; right?	6	A. He said to me that he thinks that it
7	A. Yes.	7	had to do with he helped somebody that was
8	Q. Which is a week after the position had	8	bleeding and he thinks that that's how he
9	been eliminated, because Mr. Aubrey had approved	9	contracted it.
10	eliminating the position? 17:53:08	10	Q. Do you believe him? 17:54:55
11	A. Yes.	11	A. No.
12	Q. And did you ultimately meet with Mr.	12	Q. Why not?
13	Baffo on that day?	13	A. I just he and normally I
14	A. On the 23rd we did not do the	14	believe, I think Anthony is an honest guy, but I
15	termination on the 23rd. 17:53:27	15	think he has been promiscuous. So that's the 17:55:15
16	Q. And why not?	16	first thing that came to my mind.
17	A. Well, that morning Anthony came to me and sat down with me and said he needed to talk to	17 18	Q. Why do you think that?A. Because he had you know we have had
18 19	me about something.	19	discussions about women, nobody specific. I never
		20	really got into it with him, but I had heard 17:55:36
		21	chatter around that he fooled around.
20	A He said he was tested for UTV		Charter arealist that he recies arealis.
20 21	A. He said he was tested for HIV		O And who did you hear that from?
20 21 22	positive.	22	Q. And who did you hear that from? A. I don't recall.
20 21 22 23	positive. Q. And did he say anything else?	22 23	A. I don't recall.
20 21 22 23 24	positive.	22	*

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